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**Red Mafia, Black Mafia in China
The Rise of Extra-legal Protection in a Guanxi-based Society**

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Red Mafia, Black Mafia in China

The Rise of Extra-legal Protection in a Guanxi-based Society

Peng Wang

**This dissertation is submitted to King's College London to fulfil the
requirements for the Doctor of Philosophy in Law**

February 2014

Declaration

This dissertation is the result of my own work.

No part of this work was done in collaboration.

I published a shorter version of Chapter VI as ‘The rise of the Red Mafia in China: a case study of organized crime and corruption in Chongqing’ in *Trends in Organized Crime* 16, no. 1 (2013): 49-73.

I presented a shorter version of this thesis, ‘Extra-legal protection in China’, at the International Conference on Asian Organized Crime in Hong Kong, May 2013.

Statement of Length

The dissertation does not exceed the word limit of 100,000 words.

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Abstract

Chinese businesses are turning away from the legal protection offered by state-sponsored institutions and legitimate private agencies and choosing instead the extra-legal protection services supplied by organized crime groups and corrupt government officials. This thesis develops an empirical analysis of the rise of extra-legal protection in post-Mao China. It emphasizes two major types of extra-legal protectors in contemporary China: corrupt police officers ('Red Mafia') and locally-based criminal groups ('Black Mafia'). It explores why mafia groups re-emerged after China adopted its reform and opening-up policies in the late 1970s. In particular, it focuses on essential conditions directly related to the rebirth and subsequent growth of the Chinese mafia.

The aim of this thesis is to test the economic theory of the mafia, to demonstrate the strengths and limitations of this theory when it is applied to China, and to establish an updated theory through a combination of economic theory and social capital theory. Using published materials as well as fieldwork data comprising of 33 individual interviews and nine focus group discussions with a total of 28 participants from two Chinese cities (Qufu and Chongqing), this thesis incorporates the concept of *guanxi*—a Chinese variant of social capital—into the discussion of state weakness and the rise of mafias. It demonstrates the corruption-facilitating roles of *guanxi*, i.e. how *guanxi* distorts China's legal system by facilitating the buying and selling of public offices and promoting the formation of corrupt networks between locally-

based criminals and government officials. The result, the Red Mafia, is a clear indicator of state weakness. The clash between guanxi and the formal legal system prevents law enforcement agencies from being able to provide sufficient protection for citizens, contributing to the rise of the Black Mafia. The analysis of the negative aspects of guanxi provides a new perspective for understanding corruption and organized crime in contemporary China.

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Peng Wang
King's College London
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Chapter I Introduction

On 18 May 2012, Lai Changxing, a 53-year-old billionaire entrepreneur, was sentenced by a court in Xiamen, a port city in south-eastern China, to a life sentence. According to Xinhua, the official Chinese news agency, his crime was smuggling a total of 27.4 billion RMB (\$4.3 billion) of goods from December 1995 to 1999 (Xinhua 2012d). Lai's company, the Yuanhua group, collaborated with other firms and organized crime groups based in Xiamen and Hong Kong to smuggle a wide variety of goods including vegetable oil, automobiles and cigarettes, electronics, chemicals, pharmaceuticals and textiles (Jacobs 2012). The smuggling resulted in the evasion of an estimated 13.99 billion RMB (\$2.21 billion) in taxes, about 15% of the nationwide revenues from tariffs in 1998¹.

Mr Lai was also found guilty of bribing 64 government officials with cars, cash and real estate valued at more than 39 million RMB from 1991 to 1999. Lai's corrupt network of officials, as Shawn Shieh (2005: 75) argues, 'was drawn from a variety of functional areas: party and government leaders; customs; public security; state security; tax and banking; enterprise managers; and even the military'. The Xiamen smuggling case brought down many high-ranking officials at the national and regional levels, for example, Ji Shengde (the head of military intelligence for the People's Liberation Army), Li Jizhou (the deputy minister of Public Security), Lan Pu

¹ The central Chinese government obtained 91.7 billion RMB from tariff revenue. Please see: <http://news.sina.com.cn/richtalk/news/money/9901/011603.html>.

(the deputy mayor of Xiamen), Liu Feng (the deputy party chief of Xiamen), Zhuang Rushun (the deputy head of the Fujian provincial Public Security Bureau), and Yang Qianxian (the head of Xiamen Customs) (Xinhua 2012b).

Lai's smuggling empire was smashed by the authorities in 1999. This resulted in the investigation of more than 600 people (government officials, customs officers, military personnel and gangsters), and more than 300 of them were punished for their involvement in the operation (Watts 2012). But master smuggler Lai evaded capture by fleeing to Hong Kong on a tourist visa and then made his way to Canada, where he resided in Vancouver. Lai fought a 12-year legal battle against his extradition, claiming that he would face torture or death if deported. Lai failed to obtain refugee status, and was repatriated to China on 23 July 2011 (Xinhua 2011e).

The Xiamen smuggling case illustrates the dangerous collusion between organized crime, business and politics that occurred in the late 1990s. In July 2001, the details of the Xiamen smuggling case were revealed by Focus (焦点访谈 '*jiaodian fangtan*'), a renowned Chinese Central Television (CCTV) show in China. Chinese people were very surprised to see such an extensive corrupt network revealed between Lai Changxing's Yuanhua Group and all levels of government officials. The Xiamen smuggling case ranks as one of the biggest scandals for the Chinese government, which prefers to regard sophisticated, well-structured organized crime groups as a problem existing only in Western capitalist countries.

The crackdown on the Xiamen smuggling empire took place in 1999, when I was in junior school. The public disclosure of collective corruption within and between public and private sectors aroused my interest in the nexus between organized crime

and corruption in post-Mao China. Ten years later, when I did my MA in criminology and criminal justice, two particularly important books—Gambetta's *The Sicilian Mafia* (1993) and Varese's *The Russian Mafia* (2001)—encouraged me to take another important step: embarking on a PhD and pursuing a thesis focusing on the Chinese mafia.

Diego Gambetta establishes a solid theoretical framework, the Sicilian model of mafia emergence or the 'property rights theory of mafia emergence', by focusing on two fundamental aspects: the demand for private protection and the supply of the same (the 'supply-demand for mafia services' scheme). The key argument suggested by Gambetta is that mafias will emerge into quasi-governmental institutions when the state fails to provide fair, equitable, and sufficient protection for the enforcement of property rights (Gambetta 1993). Federico Varese takes an important step in developing this theory when he interprets the emergence of mafia groups in post-Soviet Russia (Varese 2001). The successful transplanting of Gambetta's theory from Italy to a post-socialist country may suggest that 'the property rights theory of mafia emergence' can be used as a single framework explaining the origins of the well-established mafias in all transitional countries (or areas), including post-Mao China.

A three-year period of PhD research at King's College London provided an excellent opportunity to examine whether Gambetta and Varese's economic theory of the mafia is suitable to explain the rise of extra-legal protection groups in mainland China. The economic theory of the mafia is useful to the understanding of the emergence of the mafia, but this does not necessarily imply that this theory is valid

in all circumstances. In other words, the application of this theory to mainland China requires researchers to take local conditions into consideration.

The ‘property rights theory of mafia emergence’, centring on the theoretical framework of supply and demand for mafia services, oversimplifies the process of mafia emergence. As this thesis will argue, corruption, organized crime, and economic behaviour in general are embedded in social relations. The emergence of the mafia is not only driven by the invisible hand of market mechanisms but also by the visible hand of social relations. Drawing on published materials and fieldwork data, this thesis establishes a newly revised and updated theory—the ‘socio-economic theory of mafias’—by combining Gambetta’s and Varese’s economic theories and theories of social capital. In other words, it incorporates local conditions—the negative effects of *guanxi* (a Chinese variant of social capital)—into the discussion of state weakness and the rise of extra-legal protection.

1. Extra-legal protection with Chinese characteristics

This thesis develops an empirical analysis of the rise of extra-legal protection in post-Mao China. It explores why mafia groups re-emerged after China adopted its reform and opening-up policies in the late 1970s. In particular, it focuses on essential conditions directly related to the rebirth and subsequent explosion of the Chinese mafia. The aim of this thesis is to test the economic theory of the mafia, to demonstrate the strengths and limitations of this theory when it is applied to China, and to establish an updated theory through a combination of economic theory and social capital theory.

This thesis suggests two distinct and related theories: the 'market competition theory of mafia emergence' and the 'socio-economic theory of mafia emergence'. Drawing on a critical review of existing literature, this thesis develops a new framework: the 'supply-market competition-demand for mafia services', emphasizing the importance of market competition in the process of mafia emergence. This hypothesis is founded on the assumption suggested by economists and political scientists that the state and the market are alternatives to each other. When the state fails to supply sufficient protection to its citizens, the market becomes the only remedy for state failure. The 'market competition theory of mafia emergence' sees individual behaviour in purely rational terms, and thus the rise of a certain type of protection and enforcement mechanism (either legal or illegal) is perceived as a result of market competition.

Fieldwork data from China, however, unexpectedly provided evidence against this hypothesis. Guanxi, a Chinese version of social capital, is the most important informal institution which substitutes for and complements the formal legal system. The economic behaviour of Chinese people is embedded within the structure of social relations (i.e. guanxi networks). To be specific, the term 'guanxi' was frequently and spontaneously identified by most interviewees as an important mechanism employed by individuals to protect their rights, facilitate (corrupt) transactions, identify protection suppliers and seekers, and guarantee the quality of both legal and illegal services. In this case, the choice of a proper protection and enforcement mechanism largely depends on social networks rather than fair market competition. The divergence of interview data from the original proposition forced

the author to reshape the research design by stressing the role of guanxi in the rise of extra-legal protection. The analysis of fieldwork data and a review of guanxi literature give rise to the second theory: the 'socio-economic theory of mafia emergence'. This theory focuses on the dark side of guanxi, the way in which it subverts legal institutions and facilitates the rise of extra-legal protectors.

The author's empirical research in China suggests that Chinese businesses are increasingly turning away from the legal protection offered by state-sponsored institutions and legitimate private agencies and choosing instead the extra-legal protection services supplied by organized crime groups and corrupt government officials. Mafia scholars limit their attention to the relationship between state failure and the rise of mafias in transitional countries and demonstrate that mafia groups function as quasi-governmental institutions providing private protection for people in need (Gambetta 1993). This thesis differs from the traditional study of extra-legal protection by not only analysing the rise of criminal groups specializing in the provision of private protection, but also emphasizing the role of law enforcement agencies and state security in the production and distribution of unlawful enforcement and protection services.²

This thesis emphasizes two major types of extra-legal protectors in contemporary China: corrupt police officers ('Red Mafia') and locally-based criminal groups ('Black Mafia'). The concept 'Red Mafia' refers to corrupt government officials who abuse power and supply illegal protection; the main categories of its services include

² Federico Varese in *The Russian Mafia* (2001) offers a thorough discussion about the different types of 'protectors' that populated the market of protection in post-Soviet Russia (see pp. 55-75; pp. 188-189). His arguments contribute greatly to the author's understanding of the rise of extra-legal protection in mainland China.

safeguarding organized crime groups and protecting illegal entrepreneurs in the criminal underworld, supplying insider information and protection for businesses or individuals, sheltering subordinates' corrupt transactions, and preferential distribution of public appointments. 'Red' is not only the symbolic colour of the Chinese Communist Party (CCP), but also the colour of all government officials because the CCP monopolizes the three branches of government (legislative, executive and judicial). 'Red Mafia', therefore, is the proper term to describe government officials who obtain illegal benefits through the buying, selling, and distribution of private/illegal protection. In order to differentiate the mafia from the Red Mafia, this thesis renames the mafia—a particular type of criminal group which derives its income mainly from the business of private protection—as 'Black Mafia'. The use of the colour 'black' is because Chinese authorities and scholars tend to call organized crime groups 'Black Societies'. It is logical to use the term 'Black Mafia' to refer to a special type of black societies.

2. Corruption, guanxi and mafias

Using published materials and fieldwork data from two Chinese cities (Qufu and Chongqing), this thesis incorporates the concept of guanxi into the discussion of state weakness and the rise of mafias. It demonstrates *the corruption-facilitating roles of guanxi*, i.e. how guanxi distorts China's legal system by facilitating the buying and selling of public offices and promoting the formation of corrupt guanxi networks between locally-based criminals and government officials. The negative influence of guanxi on the formal legal system results in the rise of the Red Mafia, a clear indicator of state weakness. This thesis also illustrates *the mafia-facilitating roles of guanxi*; the clash between guanxi and the formal legal system prevents law

enforcement agencies from being able to provide sufficient protection for citizens, contributing to the rise of the Black Mafia (e.g. underground police organizations). The negative aspects of guanxi, emphasized by this thesis, provide a new perspective for understanding corruption and organized crime in contemporary China.

Guanxi is a double-edged sword. The term guanxi is applied indiscriminately by Chinese people to all forms of horizontal and vertical dyadic ties. Guanxi is described by Oi (1991: 131) as 'a special system of exchange between persons of equal or unequal status; it can be clientelistic or nonclientelistic'. Clientelistic exchanges (such as between government officials and businessmen) tend to have negative effects, whereas nonclientelistic exchanges (such as between friends) tend to be positive.

An important category of clientelistic guanxi is patron-client relations. These relationships are formed when powerful officials control all state resources (Gold et al. 2002). Battersby et al. (2011) find that guanxi practices in Chinese business merge with 'patterns of patron-client relationship' where the principle of reciprocity and the essence of mianzi (face) in guanxi exchange violate bureaucratic norms and undermine the rule of law. In other words, certain kinds of guanxi are closely associated with corrupt behaviours (e.g. favouritism and nepotism) (Luo 2008).

This thesis will argue that guanxi plays an important role in facilitating corrupt transactions (such as bribing government officials) and the buying and selling of extra-legal protection services. It would be wrong, however, to automatically equate guanxi with corruption. Guanxi can be benign and valuable. For example, drawing on the data collected through a multi-stage survey of residents, Zhang (2009: 472)

demonstrates that 'residents who have strong neighbourhood guanxi are less likely to be fearful of crime in contemporary urban China'.

If cultural differences in network practices are set aside, guanxi in China might be equated with personal networking or connections in the West. The role of personal connections, however, differs according to whether a country has a strong or a weak institutional environment. The negative influence of personal connections in a transparent country (e.g. the UK and Germany) is limited by progressive social laws and openness of government, while personal connections in an opaque country (e.g. China) are seen as corrupting the public administration. Openness and transparency strengthens people's trust in government and protects the decision-making mechanism from the demands of personal connections. The opaque nature of the Chinese government, however, makes it difficult to see how public policy is developed and how the civil service operates, creating favourable conditions for people to employ personal connections (i.e. guanxi) rather than formal rules to get things done. This negative aspect of guanxi in the context of China's weak institutional environment emphasises the importance of incorporating an analysis of these negative aspects into the examination of corruption and the rise of extra-legal protection.

The author's data collection in two Chinese cities (Chongqing and Qufu) was conducted from December 2011 to early March 2012. It involved a total of 33 in-depth semi-structured interviews with journalists, academics, police officers, prosecutors, judges, local government officials, entrepreneurs, private (illegal) bankers, and lawyers; nine focus group discussions with a total of 28 participants; an

extensive review of published materials; and a number of email communications with law professors. The Chongqing crime crackdown, the most influential anti-crime campaign in the last decade, provides valuable materials to illustrate the corruption-facilitating roles of *guanxi*. Wen Qiang's corrupt network within the Chongqing Public Security Bureau offers a vivid example of how the Red Mafia safeguards corrupt police officers and enables criminal groups to dominate the Chongqing criminal underworld. Fieldwork data from Qufu demonstrates how private individuals and entrepreneurs employ law enforcement, *guanxi* and mafia services to get things done. It stresses the importance of *guanxi* in facilitating transactions of extra-legal protection services. In particular, when individuals and entrepreneurs choose to purchase illegal services, they need take account of the reputation of illegal enforcers in the *guanxi* network. Additionally, in order to obtain high-quality mafia services, purchasers must spend time, energy and money in developing and maintaining a close *guanxi* with unlawful enforcers.

This research contributes to three literatures. First, previous research examines the relationships between state failure and mafia emergence. Publications relating to the Sicilian Mafia (Bandiera 2003; Gambetta 1993), the Russian Mafia (Varese 2001), Hong Kong triads (Chu 2000), the Japanese Yakuza (Hill 2003; Milhaupt and West 2000a), extra-legal protection in Bulgaria (Tzvetkova 2008), mafia movements (Campana 2011a; Varese 2006, 2011a), prison gangs (Skarbek 2010, 2011, 2012), and youth gangs (Russell S Sobel and Osoba 2009) set up a theory named by Federico Varese as 'the property right theory of mafia emergence' (Varese 2011a). Mafias act as quasi-governmental institutions when the state fails to provide fair, equitable, and

sufficient protection for the right-holders in the procedures concerning the enforcement of property rights (Wang 2011). The existing research on mafia emergence has generally been limited to examining the substitutive relationship between the state and the mafia. This thesis contributes to existing research by exploring the relationship between the three independent systems of order in the Chinese context: the legal system, *guanxi* and the mafia. In other words, it incorporates the concept of *guanxi* in the discussions of state weakness and the rise of mafias.

Second, alongside the growing interest in China's economic and social transformation, the conception of *guanxi* has become a popular academic topic over recent decades (Gold et al. 2002b). Past research mainly focuses on two aspects of *guanxi*: the cultural and the institutional dimensions (Chang 2011). Cultural scholars view *guanxi* as a specific type of relationship or a unique strategic behaviour deeply rooted in Chinese culture (Dunning and Kim 2007; Park and Luo 2001; Yan 1996a). Institutional theorists define *guanxi* as a Chinese idiom of social capital and network (Adler and Kwon 2002; Park and Luo 2001; Xin and Pearce 1996). This thesis is based on institutional theories of *guanxi*. The relationship between *guanxi* and the legal system has been commonly described as substitutive or complementary (Peng 2003; Potter 2002; Xin and Pearce 1996), but the negative side of personal *guanxi* needs further examination. This thesis provides an opportunity to examine how *guanxi* distorts and subverts the Chinese legal system; it also explores the new feature of *guanxi* that functions as extra-legal governance protecting corrupt transactions between government officials and locally-based criminals in contemporary China.

Third, past research examines multi-dimensional nature of Chinese organized crime in China and beyond. Three aspects have been emphasized. From the global perspective, human smuggling (Bolz 1995; Zhang and Chin 2002), illegal cigarette trade (von Lampe et al. 2012) and drug trafficking (K. Chin and Zhang 2007) have been thoroughly explored, and counterfeiting (UNODC 2013), sex trafficking (Chin and Finckenauer 2012) and loan sharking (Soudijn and Zhang 2012) have gained increased attention. From the regional perspective, cross-border crime between mainland China, Hong Kong and Taiwan (Lo 2009; Vagg 1992) and the mainlandisation of Hong Kong- and Taiwan-based criminal groups (Lo 2010; T Wing Lo and Kwok 2012; Wang 2012a) have been deeply examined in recent years. From the national perspective, past research focuses on various aspects of Chinese organized crime, such as drug trafficking and distribution (Huang et al. 2012), prostitution (Liu 2012a), robbery (Xu 2009b), stolen children (Shen et al. 2012), cigarette counterfeiting (Shen et al. 2010), and the relationship between politics and organized crime (Broadhurst 2013; Chin and Godson 2006). Criminal protection or quasi law enforcement, however, has received surprisingly little attention in discussions of organized crime in China. The author's research complements the existing research by examining the involvement of criminal groups in the private protection business.

3. Map of the Thesis

The following chapters address the key issues of corruption, *guanxi* and extra-legal protection in contemporary China. *Chapter II* consists of two sections. Section one provides a thorough discussion of definition issues regarding the terms 'organized crime' and 'mafia'. It firstly focuses on how the Chinese government defines

organized crime by using the terms 'dark forces', 'mafia-style organizations', and 'black societies'. It then illustrates the way in which international scholars define and distinguish organized crime and the mafia. The review of existing literature on the definitions suggests an obvious contradiction between international scholars' and Chinese authorities' understanding of the mafia. In order to avoid confusion, the author considered proposing a new term: 'extra-legal protection group'. This equated with the term 'mafia group' as used by Gambetta and Varese: a particular type of criminal group that derives its main source of income from the criminal protection business. It soon became apparent, however, that the term 'extra-legal protection group' is much broader, encompassing not only the mafia but also entrepreneurial bureaucrats and corrupt security and police officers. The author therefore suggests distinguishing between two types of extra-legal protectors: (1) the 'Black Mafia', referring to a special type of criminal group which derives its main source of income from private protection; (2) the 'Red Mafia', referring to corrupt government officials who sell extra-legal protection by abusing their power and office.

Section two provides the history of organized crime in China from the Qing Dynasty until now. It examines why this problem is important and situates it historically. The development of organized crime during China's economic reforms is closely associated with corruption within the political establishment. The nexus between organized crime groups and government officials, especially law enforcers, enables criminals to control illicit businesses such as gambling, prostitution, and drug dealing. An overview of the literature on Chinese organized crime demonstrates that both

international scholars and Chinese criminologists neglect an important aspect of organized crime in contemporary China, which is extra-legal protection.

Chapter III examines Gambetta and Varese's economic theory of mafia emergence and suggests the 'market competition theory of mafia emergence' by building on the framework 'supply—market competition—demand for mafia services'. The economic theory of the mafia centres on a 'supply—demand for mafia services' scheme, which suggests that the emergence of mafias is directly linked to a weak state where the legal framework is confusing, the definition of property rights ambiguous, the judicial system weak, enforcement limited, and corruption rampant. The private ordering literature suggests various combinations of enforcement mechanisms: state-illegal (state police and units of security forces acting as private entrepreneurs), private-legal (private security companies) and private-illegal (mafias). It demonstrates that these mechanisms can operate more efficiently than the overloaded and procedure-laden public courts (state-sponsored institutions).

The review of the literature on both mafia emergence and private ordering illustrates that the study of extra-legal protection in China should incorporate two distinct but related phenomena: mafia groups and state-illegal enforcers. Building on the two theoretical frameworks, a modified framework suggests that the inability of the state to supply protection for its citizens and settle disputes in commercial transactions may not inevitably result in the rise of extra-legal protectors. The new framework argues that extra-legal protectors—mafia groups and/or state-illegal enforcers—will arise where state-sponsored protection enforcement is weak or

absent, costly and/or biased, and where private legal enforcement can make up the 'protection deficit' caused by a failed state are less preferable than the mafia.

Chapter IV discusses the use of the case study as an appropriate research methodology, explains the choice of research sites, shows how the author dealt with the methodological problems that were encountered in the fieldwork, and illustrates the process of data analysis. During the author's fieldwork in China, guanxi was spontaneously mentioned by interviewees as an important informal institution that is frequently used to facilitate transactions and protect private rights. Moreover, guanxi was described as an effective mechanism for protecting corrupt transactions. In contrast with the new theory discussed in chapter III which argues that the buying and selling of protection and enforcement services occurs in a competitive market and protection-seekers make rational choices, interview data suggests that economic behaviour (e.g. the choice of preferred protection mechanism) is closely embedded in networks of interpersonal relationships. This encourages the author to rewrite the proposition by applying guanxi theories to the discussion of state weakness and the rise of extra-legal protection, and suggest instead a 'socio-economic theory of mafia emergence'.

Chinese society is characterized by the long-term coexistence of guanxi and the legal system. The Chinese guanxi network arose centuries ago to protect property rights, secure trade relations and regulate transactions. The economic reform in post-Mao China has been mirrored by the emerging law system, giving rise to the court-centric approach. The juxtaposition of these two systems, however, does not necessarily result in a positive outcome. *Chapter V* discusses the coexistence of these two

systems, and emphasizes the negative influence of guanxi on China's formal legal system. Most China scholars stress the positive side of guanxi by discussing the relationship between the guanxi network and the legal system (Luo 2000; Peng 2003; Xin and Pearce 1996). Guanxi has been defined as the most important informal institution in China, achieving what formal institutions are designed, but fail, to achieve (Xin and Pearce 1996). In the face of weak market structures, ill-defined property rights, institutional uncertainty, and incomplete institutional foundations, guanxi substitutes for formal institutional support (Nee 2000). This was especially true in the 1980s and 1990s, but still holds true today. Since China gradually strengthened its legal framework and its socialist market dramatically expanded in the late 1990s, guanxi has gradually been transformed from a substitutive to a complementary informal institution (Potter 2002; Zhang and Keh 2009).

The arguments on the substitutive and complementary relationships between two systems of order illustrate the changing significance of guanxi in China's transitional economy. However, the existing literature neglects the negative influence of guanxi practice on China's legal system. Guanxi, as an informal institution, starts off by substituting and complementing formal rules, but it eventually subverts formal institutions. A theory of institutional interaction suggests that informal institutions, in some circumstances, undermine and contravene the newly-formed or existing formal institutions (Grzymala-Busse 2010). The negative impact of the guanxi network on formal institutions is derived from the increasing intertwining between guanxi and corruption (Luo 2008).

Focusing on the Chongqing crime crackdown, *Chapter VI* illustrates how guanxi distorts China's legal system by facilitating the rise of illegal job markets (the buying and selling of public appointments) and building the corrupt network between locally-based criminals and government officials. The analysis of the Wen Qiang case, one of the most famous and widely-publicized cases in Chongqing's latest crime crackdown campaign, suggests that the rise of the Red Mafia is a key feature of state weakness. Moreover, this chapter develops a typology of organized crime, explores how gangsters developed guanxi networks with public officials, suggests why organized crime groups chose the Red Mafia as their preferred protection and enforcement mechanism, and examines patterns of services the Red Mafia provided.

Chapter VII focuses on how criminal groups and the urban underclass take advantage of China's modernization by engaging in the provision of private protection. As chapter VI demonstrated, the Red Mafia is the major supplier of extra-legal protection, but this does not mean no other types of extra-legal protectors (e.g. Black Mafia) exist in the market. The increasing demand for criminal protection cannot be fully fulfilled by the Red Mafia. To be specific, corrupt transactions either within the political sectors or between government officials and criminal groups coordinate via guanxi networks and take place in secret. Locally-based criminals, legal/illegal entrepreneurs and corrupt government officials are major beneficiaries of Red Mafia protection, while private individuals and legitimate entrepreneurs who do not possess guanxi resources with government officials tend to employ other means (e.g. street gangs). Moreover, the Red Mafia does not always offer the best

path to dispute resolution. For example, the Black Mafia possesses comparative advantage in dealing with disputes (e.g. debt dispute) between private parties.

This chapter describes the scale and seriousness of extra-legal protection activities, and explores the relationship between law, guanxi and the use of extra-legal protection by analysing two phenomena, underground police organizations (‘地下出警队’) and the provision of hospital security by unlawful protectors (‘医院内保’). It suggests that it is guanxi that facilitates the buying and selling of extra-legal protection or quasi law enforcement services by reducing illegal transaction costs, guaranteeing quality of services, and punishing violators.

The concluding chapter reviews Gambetta and Varese’s theoretical framework on mafia emergence in the light of the original empirical data. It points out the limitations of the Sicilian model in interpreting the rise of Chinese-style criminal protection groups and develops a Chinese model of mafia emergence (‘socio-economic theory of the mafia’) by incorporating local conditions (guanxi practice). Guanxi in contemporary China is a double-edged sword. On the one hand, guanxi provides a complement to the formal institutional framework. On the other hand, guanxi practice conflicts violently with the rule of law and fair competition, damaging China’s legal system. When the establishment of a socialist market economy with Chinese characteristics is not accompanied by an efficient legal framework protecting law enforcers and government officials from the demands of guanxi networks, the negative effects of guanxi become more obvious. As a result, corruption, bribery and organized crime are closely associated with the practice of

guanxi, a situation which threatens the authority of the Chinese government and the rule of law.

Chapter II Chinese organized crime: its definition and history

With the establishment of the People's Republic of China in 1949, Mao Zedong succeeded in destroying the influence of ancient Chinese secret societies (A. Chen 2005).³ A good example of Mao's success is the demise of the Shanghai Green Gang, which had until then monopolised the gambling and prostitution industries in Shanghai. The gang also played an essential role in the global distribution of opium from the Golden Triangle, one of Asia's two main opium-producing areas, overlapping Burma, Vietnam, Laos and Thailand (Broadhurst 2011). Numerous campaigns (such as 'banning opium', 'prohibiting gambling', 'closing down prostitution houses', 'cracking down on religious cults and superstitious sects') adopted by the Chinese Communist Party resulted in a surprising achievement: 80 million members of secret societies, over two million bandits and a huge number of members from 300 religious cults were 're-educated' and re-introduced into society (Chen 2005; Lieberthal 1973). One of the results of this was the eradication of the criminal underworld in mainland China. Nonetheless, secret societies, especially the triads, still remained in the colonial remnants of Hong Kong and Macau, in Chiang Kai-shek's Taiwan, and in Chinatowns in America, Europe and southeast China (Glenny 2008).

³ All the evidence, especially government documents, demonstrates that organized crime disappeared during Mao's period, but there is a lack of research examining what happened to the residuum of secret societies and whether they really disappeared completely. It is, however, certain that after a series of campaigns against secret societies in the early 1950s, organized crime was not a concern for the Chinese Communist Party until Mao's death in 1976.

In 1978 the Chinese government, under the leadership of Deng Xiaoping, made a dramatic break with 'the Maoist variant of the classical Stalinist model which previously existed in China' (Ellman 1986: 423), and began implementing economic reform and market liberalization in place of a centrally-planned economy (Zheng 2005). As Deng and Cordilia (1999: 213) show, 'these changes are so fundamental, complex, and far reaching that the basic character of China has been and continues to be profoundly and irrevocably altered'.

Over 30 years on 'the road to free economy', China has become the world's second largest economy. Private property rights have been gradually and selectively established in China through a list of economic reforms: the partial privatisation of farms, large-scale decollectivization of state-owned enterprises, and the mass privatisation of collectively owned township and village enterprises (Wang 2011).

China's economy witnessed continuous rapid growth during and after the global financial crisis of 2008, and that growth has dramatically driven the recovery of the international economy. However, this growth does not mean that China's economic transition from a centrally-planned economy to a market-oriented economy is perfect. Organized crime has risen from near-extinction and continues to broaden its presence domestically and internationally since China adopted its reform and opening-up policies.

With the growing global importance of China, Chinese organized crime has become an increasing non-military threat to national, regional and international security. International scholars focus on the three dimensions of Chinese organized crime: the

resurgence of the criminal underworld in mainland China; cross-border crime in Greater China; and Chinese organized crime overseas.

Firstly, the re-emergence of organized crime has been closely associated with the increasing marginalisation of rural migrant workers and laid-off workers (Lo and Jiang 2006). Under such unfavourable circumstances, resource-deprived people often resort to the criminal underworld, seeking opportunities in black markets for illicit goods (Xia 2009). As leading Chinese criminologist He Bingsong illustrates, organized crime in post-Mao China has 'developed from nothing to something, from small to big, from isolated to well-organized, from domestic to international during the past 30 years' (He 2009a: 161; Xia 2006).

Secondly, cross-border crime has become a new threat for Greater China (Lo 2009). Before Hong Kong reverted from British to Chinese rule on 1 July 1997, a popular view held by both academics and practitioners was that, after the transition, major triad societies would leave Hong Kong for Western countries where they would rapidly expand their influence, making them the most powerful criminal organizations in the new century (Lo and Kwok 2012). Unexpectedly, however, the triads expanded instead into mainland China (Broadhurst 2011; Chu 2005; Wang 2012a). Criminal groups from Hong Kong and Taiwan adopted three strategies to exploit mainland China: (1) forming cooperative relationships with local gangs on the mainland; (2) establishing subsidiaries in major Chinese cities; (3) investing in legitimate businesses, most of which serve as fronts for their illegal activities (Qiu 2011; Wang 2013a).

Thirdly, despite the fact that Hong Kong triads lost their international significance because their entrenched culture and patterns of organization were incompatible with modern transnational criminal activities, a generation of non-triad organised criminals 'has emerged as an active, if not dominant, force in illegal transnational enterprises' (Zhang and Chin 2003: 469). The gradual formation of large international Chinese communities abroad has been accompanied by an attendant growth in Chinese organized crime—a link that was more broadly acknowledged by a 2002 report on Chinese organized crime by the US Library of Congress, which demonstrated that the transnational activities of Chinese crime groups constitute a serious threat to societies with significant Chinese migrant communities (Curtis et al. 2002).

Take Chinese organized crime in the UK for example: mainland Chinese gangs are now an emerging power in the Chinese communities within Britain (Muir 2004). The development of mainland Chinese gangs, and of the Fujianese gangs in particular, into separate criminal syndicates poses a serious threat to those triad societies (14K, Wo Shing Wo, Wo On Lok and Sun Yee On) already established in the UK. Over the past decade, London's Chinatown has witnessed the decline of triad influence. This has largely been the result of a successful policing strategy, underpinned by the confidence of the Hong Kong community in reporting all kinds of criminal offences to the police. The growth of the mainland Chinese gangs has been facilitated by the lack of trust in authority on the part of the immigrants from mainland China (Wang 2013a).

The national, regional and international threats posed by ethnic Chinese crime groups to both China and those countries hosting Chinese nationals demonstrate that the study of Chinese organized crime is both necessary and timely. Rather than focusing on the three dimensions of Chinese organized crime (Wang 2013a), this chapter focuses its attention on two main aspects: definitions and the history of Chinese organized crime. To be specific, it explains how the Chinese government and western criminologists define organized crime and outlines the historical evolution of Chinese organized crime. Particular attention is paid to Chinese secret societies during the Qing Dynasty, the Shanghai Green Gang in the Republic of China (1912-1949) and the resurgence of organized crime in contemporary China. The history of Chinese organized crime reflects the enormous political and economic changes experienced by China over the same period.

1. Definitions

‘Organized crime’ as a concept has been frequently used, but ‘defining the concept of organized crime has long been a source of controversy and contention’ (Adamoli et al. 1998: 4; Levi 1998). The common misconception is either equating organized crime with the mafia, or regarding them as completely different things. Scholars from China have a very different understanding to scholars from foreign countries of what organized crime is and how organized crime is in fact ‘organized’. Despite the lack of a universally accepted definition of organized crime, the comparative analysis of organized crime has produced definitions from two perspectives—China and western countries. These provide an opportunity to gain insights into the structure and activities of organized crime groups.

1.1. The legal definition of 'black society' in China

This section firstly focuses on a critical review of definitions of organized crime and the mafia in contemporary mainland China. In China's Criminal Law and its legislative or judicial interpretations, there is no explanation which directly interprets the meanings of 'organized crime' or 'mafia'. According to official documents and Chinese government legislation, the term '*heishehui*', which is usually translated as 'black society' or 'dark society', is an ambiguous and versatile word used to mean organized crime group, secret society⁴, or the criminal underworld in general (Chen 2005; Chin and Godson 2006; Wang 2011; Xia 2006; Zhang 2001b).

Regarding the characteristics of '*heishehui xingzhi zuzhi*' (literally: black society-style organization, or organization with a gangland nature, or organization with an underworld nature)⁵, Article 294 of *The Criminal Law of the People's Republic of China* (passed in 1979 and revised in 1997) states that:

⁴ The term 'secret society' (literally '*mimi huidang*') is also an ambiguous concept in China. It refers to 'underground political organizations that aim to overthrow the government', and also to 'religious societies that are dedicated to advocating and spreading the creeds' (Chen 2005: 77). In traditional China, 'all criminal organizations in Chinese society have been brought under the umbrella of the "secret society". To separate them conceptually from the secret societies of a more political or religious nature, they are often referred to as "black gangs" (*hei bang*) or "black societies" (*hei shehui*) in the Chinese discourse' (Chen 2005: 78).

⁵ Scholars and Chinese authorities translate the term '*heishehui xingzhi zuzhi*' into 'a criminal syndicate' or 'organization in the nature of criminal syndicate'. This is an indirect translation that attempts to grasp the real meanings of this term in China's Criminal Law. But I prefer to translate '*heishehui xingzhi zuzhi*' directly as 'black society-style organization' or 'organization with a gangland nature' or 'organization with an underworld nature' in order to suggest it has been ambiguously defined in a broad way, because the term '*heishehui xingzhi zuzhi*' has been used by Chinese authorities and researchers to interpret many concepts, like 'organized crime group', 'secret society', and 'the criminal underworld'.

Whoever organizes, leads, or actively participates in an organization with characteristics of a criminal syndicate, which carries out lawless and criminal activities in an organized manner through violence, threat, or other means, with the aim of playing the tyrant in a locality, committing all sorts of crimes, bullying and harming the masses, and doing what has seriously undermined the economic and social order.⁶

A judicial interpretation⁷ issued by China's Supreme Court in 2000 suggested that organizational structure, organizational behaviour, economic strength, protection from government officials, and organizational harm were regarded as five key features when judges attempted to identify a criminal group as a Black Society-style organization.⁸ In 2002, a legislative interpretation⁹ attempted to revise the Supreme

⁶ The translation of Article 294 was provided by Professor Ming Xia in his paper published in 2008: 'Organizational formations of organized crime in China: perspectives from the state, markets, and networks', *Journal of Contemporary China*, 17 (54): 1-23, page 2.

⁷ Judicial interpretation (also called judicial explanation) issued by the Supreme People's Court is an important part of mainland China's law system. It is normally used to regulate and standardise trial procedures. For more information, please see: C. Shibing, 'The Status of Decisions and Judicial Interpretations of Supreme People's Court', *China Legal Science*, 3 (2006), 1-14.

⁸ Zuigao Renmin Fayuan Guanyu Shenli Heishehui Xingzhi Zuzhi Fanzui De Anjian Juti Yingyong Falu Ruogan Wenti De Jieshi [Supreme People's Court's Interpretation on Several Questions Concerning the Concrete Application of Laws in Adjudicating Criminal Syndicate Cases]. This judicial interpretation issued by China's Supreme Court has elaborated on the defining characteristics of a black society-type organization, which are listed as follows: '(a) they have a more or less fixed structure, with a large number of members and clearly identifiable leaders. Their core members are stable and comply with rigid disciplinary rules; (b) they make financial profits through engagement in illegal activities or other means that allow them to obtain a position of economic power; (c) they tempt or force government officials to take part in their activities through bribery, threats or other means, or make officials provide protection for them; (d) they commit illegal or criminal acts, in some areas or sectors, through violence, threats, disturbance or other means, such as extortion, racketeering (monopolizing markets

Court's 2000 judicial interpretation. It emphasised that organizational structure, organizational behaviour, economic strength and organizational harm were typical features of a black society-type organization, but regarded 'protective umbrella' as an optional feature of black society-style organization¹⁰.

The 2011 revision of Article 294 defines the key characteristics of 'organization with a gangland nature' as follows:

'(1) A relatively stable criminal organization is formed with a relatively large number of members, and there are specific organizers or leaders and basically fixed core members. (2) Economic interests are gained by organized illegal or criminal activities or other means, and it has certain financial strength to support its activities. (3) By violence, threat or other means, it commits

through violence), creating disturbances or intentionally injuring people, thus seriously disrupting economic order and people's daily activities' (Zhang 2001: 55).

⁹ The full title of it is 'Interpretation by the Standing Committee of the National People's Congress Regarding the First Paragraph of Article 294 of the Criminal Law of the People's Republic of China'.

¹⁰ Guanyu 'Zhonghua Renmin Gongheguo Xingfa' Di 294 Tiao Diyikuan De Jieshi [Interpretation by the Standing Committee of the National People's Congress Regarding the First Paragraph of Article 294 of the Criminal Law of the People's Republic of China]. The interpretation regarding the characteristics of 'Black Society-style organization' are listed as follows: '(a) the criminal organization is relatively stable, with a relatively large number of members, definite organizers or leaders, and basically fixed backbone members; (b) it gains economic interests through organized illegal acts, criminal acts or other means, with a certain amount of economic strength to support its activities; (c) it has committed organized illegal and criminal acts on many occasions through violence, threat or other means, perpetrating outrages, riding roughshod over or cruelly injuring or killing people; (d) through committing illegal and criminal acts, or taking advantage of protection and connivance by State functionaries, it plays the bully over an area, exercising illegal control and wielding enormous illegal influence over a certain area or trade, thus seriously disrupting the economic order and people's daily activities'. The translated version is from *the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China*, http://english.gov.cn/laws/2005-10/09/content_75389.htm.

organized illegal or criminal activities many times to do evil, bully and cruelly injure or kill people. (4) It dominates a certain area by committing illegal or criminal activities or taking advantage of the harboring or connivance by the state functionaries, forming an illegal control or significant influence in a certain area or sector, which seriously disrupts the economic and social order.’ (Broadhurst 2013: 104)

According to the characteristics of ‘*heishehui xingzhi zuzhi*’ (‘organization with a gangland nature’) defined in China’s Criminal Law and its interpretations, the Chinese government has launched a series of crime crackdown campaigns aiming at ‘striking against organized crime and eradicating the dark forces’ (*dahei chu’e*). These campaigns suggest that Chinese authorities regard a hierarchical structure as the fundamental defining feature of organised criminal groups in practice. However, scholarly researchers, especially those from Western countries, regard this as an obsolete way of thinking because the Chinese government ‘looks only for tightly knit organizations with a pyramid-like structure’ (Xia 2008: 2).

In addition, Chinese authorities and scholarly researchers have faced abundant conceptual confusions as they do not have clear distinctions among many terms. Terms like ‘criminal group’, ‘mafia-style syndicates’, ‘dark force’, ‘organization with mafia characteristics’, ‘organization with an underworld nature’, ‘black society-style organization’, and ‘underworld society’, are vaguely defined and are often used interchangeably (Xia 2008). Typical examples are discussed as follows:

“According to Chinese authorities, the most powerful and best-organized criminal organizations in China have not yet reached the status of underworld

organizations like the Italian Mafia, the Japanese Yakuza, or the Hung Kong Triad. As a result, Chinese authorities described the most advanced criminal organizations in China as 'organizations with underworld nature' (or characteristics), to differentiate them from other loosely knit and less influential criminal organizations such as criminal gangs and crime groups...In addition to the Chinese government's label, terms such as 'underworld-like gangs', 'underworld-like organizations', 'underworld gangs', and 'mafia-like gangs' are also used to depict these groups" (Chin and Godson 2006: 41).

"The official stance continues that only 'criminal groups with mafia characteristics' have emerged in China, but not that a criminal underworld exists. This is far from popular perception" (Xia 2008: 1-2).

"Organized crime in contemporary China seems like a soaring giant Dragon: the Dragon's Head is the most advanced and influential criminal groups – fully fledged Mafia; the Dragon's Body is Mafia-style organizations and other well-structured organized crime groups; the Dragon's Tail is criminal gangs with small size, limited scope, and simple structure" (Wang 2011: 292).

This gives rise to two problems. Firstly, the term 'black society' (also named 'criminal underworld') has been interpreted by Chinese authorities as the same phenomenon as mafias, like the Sicilian mafia, triad societies in Hong Kong, and the Japanese Yakuza. Chinese authorities tend to regard black society (or the mafia) as the most influential and best-organised criminal group in the world, but deny that the black society (or the fully-fledged mafia) exists in contemporary mainland China. However, it is neither right to equate the mafia with a 'black

society' (Varese 2010a), nor to regard the mafia as the best-organised or most powerful (or influential) criminal group.¹¹

Secondly, it seems that Chinese authorities and academics tend to use the defining characteristic of organised criminal groups, namely the hierarchical structure, to make distinctions among different types of criminal groups. But this fails to make a clear distinction between organized crime and what is commonly called mafia. It is necessary to emphasise that not all kinds of organized crime groups can be considered as mafia groups (Varese 2010a).

Misconceptions in mainland China have definitely brought negative consequences to law enforcement as well as research because 'how the problem of organized crime is defined goes a long way toward determining how laws are framed, how investigations are conducted, how research studies are done, and, increasingly, how mutual legal assistance across national borders is or is not rendered' (Finckenauer 2005: 68). This requires the author to undertake a historical review of organized crime definitions in western countries.

1.2. Under western eyes: 'organized crime' and 'mafia'

1.2.1. Organized Crime

Developing a commonly-accepted definition of organized crime has been regarded as one of the most stubborn difficulties with which researchers and law-enforcement agencies struggle. Varieties of definitions in criminal or civil statutes, according to

¹¹ The criminal underworld refers to organised groups in general, while a mafia group is a special kind of organized crime group. It is neither right to define them as completely different issues, nor to regard them as the same phenomenon.

Finckenauer (2005), were often either very vague or extremely broad. Fortunately, Klaus von Lampe, a criminologist in Germany, contributed greatly to solving the definitional problem by collating over 150 definitions of organized crime and related perspectives (see: www.organized-crime.de/OCDEF1.htm). However, great confusion still surrounds its precise meaning.

Why is agreement on a proper definition important? Defining the phenomenon is a significant issue for law enforcement as well as research. As Finckenauer notes:

‘How the problem of organized crime is defined goes a long way toward determining how laws are framed, how investigations are conducted, how research studies are done, and, increasingly, how mutual legal assistance across national borders is or is not rendered. What they perceive organized crime to be, and how seriously they regard it, also determines the degree of the public’s support for policies and resources to combat it’ (2005: 68).

Is it possible for the international community to reach a consensus on the definition of organized crime? The answer is disappointing. First, depending on the basic requirements of a concept offered by Smith (1971: 10), a definition should ‘not only include all the phenomena that are relevant, but also exclude all the phenomena that are irrelevant’. The definitions, according to von Lampe (2003: 45), were (and are) unable to provide ‘a thorough understanding of the wide range of potentially relevant phenomena and interplay among them’. In other words, the concepts defined over the past hundred years fail to encompass the whole range of organized crime.

Second, what history tells us is that ‘the concept has had a chequered development process—it has been used to refer to diverse phenomena often with overtly political and partisan intentions’ (Varese 2010a: 1). Third, the United Nations Convention against Transnational Organized Crime aimed to conclude an agreement on defining organized crime but only produced a very loose definition.¹² This indicates that a definition that could suit all parties is one of the most difficult tasks for both research and policy (Finckenauer 2005).

A number of studies conducted by researchers and academics from all over the world attempt to create a knowledge base with respect to organized crime in order to guarantee that what everyone is talking about the same thing. However, the definition of organized crime is problematic because it is extremely difficult to gain agreement from all parties. This chapter provides a general introduction to organized crime through systematic analysis of some influential definitions: the alien conspiracy model, the enterprise model and the network model. Varese also uses the three models in his 2010 paper ‘General Introduction: What is Organized Crime?’.

Alien conspiracy model

The ‘alien conspiracy’ perspective developed by policymakers was the most widely-disseminated theory of organized crime in the United States until the 1980s (Kleemans 2014). The creation of alien conspiracy theory, as Hobbs and Antonopoulos (2013) argue, was a government response to the widely-accepted belief that the American criminal underworld was dominated by Italian-American

¹² The Task Force on Organized Crime concluded in 1967 that organized crime was a ‘society’ consisting exclusively of Italian-Americans. For more information, please see: Jay S Albanese, ‘Government Perceptions of Organized Crime: The Presidential Commissioners, 1967 and 1987’, *Fed. Probation*, 52 (1988), 58-63.

Mafia groups. The alien conspiracy theory suggests that organized crime was imported by Italian immigrants during the immigration waves from 1880 to 1920 (Potter1994).

The 1967 U.S. Task Force on Organized Crime (President's Commission on Law Enforcement and Administration of Justice) asserted that the rise of organized crime was due to the Cosa Nostra conspiracy and equated 'organized crime' with 'Mafia'. Donald Cressey, sociologist and consultant to the Commission, focused his main attention on the study of the Italian-American mafia and offered his own definition which identified organized crime and the Mafia/La Cosa Nostra as synonymous phenomena (Cressey 1967).

In his book *Theft of Nation: The Structure and Operations of Organized Crime in America*, Cressey (1969) explores three aspects of Cosa Nostra: history, structure and function. Cressey describes Cosa Nostra as a strict bureaucratic hierarchy consisting of 24 'families' located in different cities across the nation. The activities of this complex confederation were governed by a 'commission' (Albini 1988). Cressey's theory provided a foundation for the modern study of organized crime and resulted in the creation of the Omnibus Crime Control Act of 1968 and the Organized Crime Control Act of 1970 (Hobbs and Antonopoulos 2013).

The Cressey model has been disputed by many other scholars, however. For example, Albini (1988) points out that Cressey's research suffers from two major shortcomings: first, he limits his historical analysis of organized crime to 'the period in American history when the Italian and Sicilian immigrants came to America' (p. 347); second, he fails to critically examine the reliability of the data offered by law enforcement

agencies and an informant. Evidence collected by the Federal Bureau of Investigation (FBI) since the early 1970s and the prosecution of Cosa Nostra members shows that the Italian-American mafia possessed only limited capability to control illegal businesses, demonstrating that the organization is not 'a tightly-knit, all-powerful, national syndicate' (Woodiwiss 2003: 23). Moreover, the alien conspiracy theory, as Hobbs and Antonopoulos (2013: 37) argue, 'did little justice to the confused, fluid, and essentially entrepreneurial character of most criminal activity and ignores the specific activities and enterprises that lie at the core of what it usually meant by organised crime'.

The enterprise model

Cressey's model has also been the target of criticism in recent academic reviews (Varese 2010a). Dwight C. Smith is one of the most influential academics to criticize Cressey's bureaucratic interpretation of organized crime families. Smith, in his book *The Mafia Mystique* (1975), aims to eradicate the Cressey model of the 'myth of mafia' by directing attention to a spectrum of market activities. The occurrence of phenomena that academics categorize as organized crime can be interpreted, as Smith argues, from a broader economic viewpoint. He considers the illegal enterprise model as a substitute for the ethnic stereotypes of crime and argues that 'illicit enterprise is the extension of legitimate market activities into areas normally proscribed, for the pursuit of profit and in response to latent illicit demand' (Smith, 1978: 164). Albin (1971) endorses Smith's analysis by demonstrating that the growth of illicit entrepreneurs (referred to 'syndicated crime' in his book) is triggered by the demand for illegal goods and services from a great number of needy people.

Peter Reuter, an influential economist and scholar of organized crime, argues that illegal markets are populated by a great number of relatively small enterprises, rather than large enterprises that achieve monopolistic control (Reuter 1985). According to Reuter, illegal enterprises cannot exercise complete control over large-scale illegal markets for two reasons: enterprises tend to increase the amount of information available to their current and potential customers, which inevitably results in a high rate of arrest that disrupts market control; on the other hand, building reputation and preventing new entrants into illegal markets requires the use of more violence, which also attracts the attention of law enforcement (Reuter 1983, 1985, 1987).

In parallel with Reuter's viewpoints, Mark Haller in his paper 'Illegal Enterprises' (1990) argues that illegal enterprise can be defined as the retailing of illicit goods and services, and thus a wide range of criminal activities might be studied as businesses. As Haller (1990: 208) further explains, illegal entrepreneurs tend to operate on a small scale with 'lower capitalization, fewer personnel and less formal management' when compared with legal businesses.

Varese (2010: 7) conducts the broadest systematic content analysis of 115 definitions of organized crime used in the past century, and concludes that 'references to "enterprise" start to appear in the definitions in the 1970s and continue to grow decade after decade'. Since the mid-1970s, the illegal enterprise of organized crime has become the dominant perspective (especially in the analysis of the Italian mafia) in European academic debate (Paoli 2002). The illegal enterprise model in the 1970s and 1980s, however, fails to make a clear distinction 'between

producers of illicit goods and services, and providers of services of dispute settlement and protection in criminal markets' (Varese, 2010: 12).

The network model

The last decade saw an increasing number of scholars who incorporated social network analysis and its methods into criminology, especially within the study of organized crime and terrorism (Carlo Morselli and Petit 2007). McIlwain (1999) discusses the importance of interpersonal relationships in (transnational) organized crime, as he explains:

'Human relationships form the least common denominator of organized crime.

The actors composing these relationships engage in the process of social networking for the provision of illicit goods and services. They also protect, regulate and extort those engaged in the provision or consumption of these goods and services' (p. 319).

The use of the structure of criminal networks by organized crime groups is the result of internal and external pressures as 'the exchange of illicit commodities requires covert action' (Bright and Delaney 2013: 239). All criminal groups, even these hierarchical organizations (Varese 2012a), can be considered networks because a social network is defined as 'any connection of actors ($N > 2$) that pursue repeated, enduring exchange relations with one another, and at the same time lack a legitimate organizational authority to arbitrate and solve disputes that may arise during the exchange' (Podolny and Page 1998: 58-59).

Social network analysis (SNA) is a valuable analytical method to describe organizational structure and the connections among actors in a specific social context. As Lupsha (1983: 133) demonstrates, social network analysis is an important step in the programmatic analysis of organized crime:

‘Network analysis consists of developing and laying out all the linkages and associations, roles, positions, and interactions of every known member of all organized crime groups in the jurisdiction and the patterns of association of that group with other organized crime groups and operations in the jurisdiction and elsewhere’.

As with Lupsha, Sparrow (1991) regards the discipline of network analysis as a significant tool for law enforcement agencies to extract information about the mechanics and vulnerabilities of criminal organizations from existing criminal intelligence databases. Bright and Delaney (2013) review the existing literature and identify four categories of approach: description, statistics, simulation and visualisation (also see: Doreian and Stokman 1997; Jennifer Xu et al. 2004). As Bright and Delaney explain:

‘Descriptive techniques examine structural changes in social networks by measuring and comparing the structural properties of networks across time...The second group of methods are statistical approaches that aim not only to detect and describe changes in the network but to find reasons for such changes...Thirdly, simulation methods rely on multi-agent technology to analyse network dynamics. In this method, individuals in social networks are modelled as agents who behave and formulate decisions based on specific criteria...In the

fourth technique, visualisation methods, the social network is displayed as a network map at a number of different points in time and the series of maps is then compared via visual inspection to identify structural changes' (Bright and Delaney 2013: 240)

The criminal network perspective starts to appear in the 1980s and remains a popular approach today. Like the enterprise model, the network model of defining organized crime has been proved to be too broad. A brief overview of the history of organized crime studies provides a multi-dimensional understanding of organized crime, but does not offer a widely-accepted definition. In the ensuing section, a thorough review of relevant literature offers a crucial distinction between organized crime and the mafia as well as Gambetta's and Varese's definitions upon which this thesis mainly relies.

1.2.2. Brotherhood of evil: the mafia

Organized crime and the mafia are neither synonymous terms nor completely opposite concepts. The mafia can be categorized as one particular part of what is known as organized crime. The 'illegal enterprise' paradigm has deeply influenced studies of the Italian mafia. Studies of the mafia during the past decades have emphasized 'the economic dimension of the mafia and the role played by mafiosi on both the domestic and international illegal markets' (Paoli 2002: 57).

In the past 40 years, these studies can be divided into two main lines of thought, namely the traditional and modernized scientific analysis. The stereotype of traditional 'mafiology' is carried out by Henner Hess (1973), who maintains that the mafia is a kind of power structure, and equates the mafia with organized crime. In

contrast with Hess' viewpoint, Finckenauer (2005: 74) firmly states that 'the mafia is very definitely a form of organized crime, but, and this is important, it is not the only form'.

Arlacchi (1993) offers an essential link between the old and new methods of analysis. According to Arlacchi, modern mafia studies are abandoning the traditional sociological or criminological approaches and turning to entrepreneurial transformation. The role the mafia plays in legal and illegal arenas has become the route for future scientific analysis. Blok (1974) concludes that the mafia has exercised a quasi-governmental role in modern society through the systematic use of organized force. The mafia arises as an illegal self-enforcement organization in the power vacuum created when governments are so weak and inefficient that they cannot wholly control the use of force.

Gambetta (1993) suggests that 'the mafia is a specific economic enterprise, an industry which produces, promotes, and sells private protection' (p. 1). The identical commodity with which both the state and the mafia have been most closely associated, he argues, is protection rather than violence. Moreover, the Sicilian mafia is not a brand name; it specifically refers to the many small-scale groups that deal in protection both in legal and illegal markets. The apparent distinction between organized crime and the mafia is that 'the mafia supplies, first and foremost, the organizing force; mafiosi and illegal dealers are not one and the same, the latter are usually independent economic agents licensed and protected by the former' (Gambetta, 1996: 227).

In parallel with Gambetta, Varese (2010a) makes a clear distinction between an organized crime group which 'attempts to regulate and control the production and distribution of a given commodity or service unlawfully' (p. 14) and a mafia group which 'is a type of organized crime group that attempts to control the supply of protection' (p. 17). Varese's definition, however, contradicts most Chinese criminologists' understanding of the mafia. The mafia, also called 'black society' or 'dark society', is defined by Chinese scholars as the most powerful and best-organized criminal organization in China.

In order to avoid confusion, the author initially attempted to establish a new term, 'extra-legal protection group', which refers to 'mafia' as used by Gambetta and Varese: a particular type of criminal group that derives its main source of income from the criminal protection business. This, however, brings a new problem. As this thesis (Chapter VI) will argue, corrupt government officials, especially police officers, are emerging as major extra-legal protectors in the criminal underworld. In this case, 'extra-legal protection groups' cannot refer exclusively to the mafia as suggested by Gambetta and Varese.

The second strategy—the adoption of Varese's definition as well as his distinction between organized crime and the mafia—requires the author to find ways to differentiate the two types of illegal protectors. This thesis proposes two new terms, the Red Mafia and the Black Mafia, by adding 'red' (the colour of the Chinese Communist Party) and 'black' (the symbolic colour of the criminal underworld) to the term 'mafia'. In this case, the Red Mafia refers to extra-legal protectors who are from the public sector and sell protection by abusing power, while the Black Mafia

refers to criminal groups who derive income mainly from the provision of private protection and quasi law enforcement.

In the following, this chapter offers a historical review of Chinese organized crime. The history of Chinese organized crime can be divided into four major periods: Qing dynasty origins, Republic of China (1912-1945) boom, Mao-era (1945-1978) disappearance, and post-Mao resurgence. This historical perspective analyses the political and social conditions that led to the rise, fall and rise again of Chinese organized crime.

2. The origins of organized crime in China

The last 200 years of Chinese history have been characterised by upheaval. China has witnessed radical regime changes touching all aspects of the nation's political, economic and social structure: from the Opium War to the end of the feudal dynasty, the warlords, the Nationalist (Kuomintang) government, the Maoist period, and finally the new period of reform and opening up (Martin 1996). Organized crime groups have successfully adapted to these complex and uncertain circumstances, becoming an integral element of China's transformation from traditional society to modern society. Chinese organized crime groups have their roots in now-vanished Chinese secret societies.

2.1. Chinese secret societies

Chinese secret societies can be divided into two main types: the secret religious denomination (*Mimi Jiaomen* '秘密教门') and the secular secret association (*Mimi Huidang* '秘密会党') (Cai 1987; He 2009a; Qin 2009). The secret religious

denomination seems like a subgroup within a religion, but it was an organization that specialized in the systematic use of violence against the state in order to gain political, religious, or ideological goals. The White Lotus Cult (‘白莲教’), established in 1133, and the Patriarch Luo Cult (‘罗教’), established in 1500, were two influential secret religious denominations in ancient China. The second category, the secular secret association, refers to a mutual-aid and brotherhood organization composed of poor peasants as well as marginalized populations. It is sometimes called the secret/feudal *Banghui* (‘帮会’) (Qin 2009).

The origin of Chinese organized crime can be traced back to the activities of the secret *Banghui* in the Qing Dynasty (He 2009a). The feudal *Banghui* was similar to the feudal family, but it was not a system based on kinship. *Bang* (‘帮’) was organized according to master-disciple relations, while *Hui* (‘会’) was an illegal group of sworn brothers (Zhou and Shao 1993). The amalgamated term ‘*Banghui*’ was generally used by the late 19th century. According to the leading Chinese criminologist He Bingsong (2009), there were three major *Banghui* in the Qing Dynasty—*Tiandihui* (in English, Heaven and Earth Society, or the triads; in Chinese, ‘天地会’); *Qingbang* (in English, the Green Gang; in Chinese, ‘青帮’); and *Gelaohui* (in English, the Red Gang, or the Society of Brothers; in Chinese, ‘哥老会’, or ‘红帮’). These *Banghui* organizations had an immense effect on society at that time, and their legacy (e.g. organizational structure, ideology, and subculture) continues to have a profound influence on organized crime groups in contemporary China.

The research conducted by Chinese social historians, especially Cai Shaoqing (1987) and Qin Baoqi (2009) from Nanjing University, suggests that the boom of the secret

societies in the late 18th and 19th centuries can be identified as an inevitable outgrowth of the destruction of the small peasant economy and initial development of a capitalist commodity economy. During the late Qing Dynasty, China experienced a number of wars, including the White Lotus Rebellion (1796-1804), the Opium Wars (1840-1842 and 1856-1860), the Taiping Rebellion (1851-1864), and the Boxer Uprising (1899-1900). Peasant farming systems in the Qing Dynasty were vulnerable to wars and environmental changes, forcing a great number of peasants to leave their homes and separate from their families. Poor peasants as well as other marginal and destitute populations became the most important demographic component of the secret societies (Bianco and Chesneaux 1972).

The late Qing Dynasty witnessed the emergence of capitalist industry and commerce. The growth of a commercial economy in coastal areas, especially the Yangtze River Delta Region and the southeast coastal area, attracted hundreds of thousands of immigrants from relatively undeveloped areas. These cities, however, failed to accommodate the surplus population from rural areas because the capitalist industry was only in its infancy (Zhang 2001a). Based on voluntary initiatives and individual choice, a large number of marginal and displaced persons formed mutual-aid/self-protection organizations. That is to say, the failure of the Qing government to provide social welfare to those who lost their homes due to the collapse of the agrarian economy facilitated the rise of Banghui. These crime groups functioned as quasi-governmental institutions offering protection to these displaced people (Cai 1987; Qin 2009). In the following, three main secret societies— the Heaven and Earth society, the Green Gang, and the Red Gang—are discussed.

2.1.1. The Heaven and Earth Society

The Heaven and Earth Society or *Tiandihui* (‘天地会’) has been defined as a secret brotherhood association initially in pursuit of political aims—‘overthrow the Qing (dynasty) and restore the Ming (dynasty)’ (*FanQing FuMing* ‘反清复明’)—and later developed into a purely criminal organization with predominantly economic objectives (He 1996). In the past three decades, Chinese historians have provided many explanations concerning the origin of Tiandihui. The explanation offered by He Zhiqing (1996) has been widely accepted: Tiandihui was established in Zhangzhou (the southern part of Fujian province) in 1674 by a Buddhist monk named Zhang Daozong (his religious name is *Wanwu Dazong* ‘万五达宗’). Tiandihui has been frequently renamed to avoid government repression; *Sanhehui* (triads ‘三合会’) and *Sandianhui* (‘三点会’) were two generally-accepted names as well as the Small Sword Society (*Xiaodaohui* ‘小刀会’) that was used only in Fujian and Taiwan (He 2009a).

Tiandihui gradually lost its initial political beliefs and developed into one of the most powerful criminal organizations after adopting a great number of homeless persons who had different priorities. As Chu (2000: 12) argues, ‘Tiandihui as it subsequently developed has nothing to do with the political mission...but was a mutual protection society which emerged spontaneously to respond to the social conflicts among various sub-ethnic groups linked to their socio-economic circumstances’. In order to gain financial benefits, members of Tiandihui units were involved in different kinds of criminal activities including drug trafficking, human smuggling, dispute resolution, blackmail and extortion (He 2009a).

The Heaven and Earth Society adopted a complex organizational structure and strict initiation ceremonies. A fully-fledged system of identification was created: 'members were given cloth or paper certificates, and were taught argots and secret body gestures; they all pledged to the Thirty-Six Oaths, Twenty-One Rules, Eleven Commandments, and Ten Punishments' (Xia 2008: 9).

2.1.2. The Green Gang

The Green Gang or Qingbang ('青帮') evolved from the religious Patriarch Luo sect during the late 19th and early 20th centuries. The Green Gang and the Heaven and Earth Society came to be known as the two biggest secret associations in the Qing Dynasty (1644-1911). Wang (1999) argues that Qing Bang is a secret society sharing the characteristics of both the secular secret association and the secret religious denomination. In other words, the Green Gang is not only performing like the secret brotherhood organization, but also retaining its religious beliefs. He Bingsong in his recent book *Research of Organized Crime in China* (2009) demonstrates that the Green Gang should be categorized as a kind of secular secret association (along lines of the feudal Banghui) because its main feature resembles a brotherhood association.

The Patriarch Luo sect was founded during the period of 1442-1527 by Luo Mengqing in the city of Jimo ('即墨'), Shandong province (Qin 2009). The Patriarch Luo sect created its reputation among the Grand Canal boatmen ('大运河船夫'). A lot of major temples (Jiamiao '家庙') of the Luo sect were established in the Subei region of Jiangsu province. These temples were initially used as missionary training centres and were gradually turned into asylums and mutual-aid institutions providing accommodation for boatmen in need (Cai 2009).

In 1768, the Qianlong emperor (‘乾隆皇帝’) outlawed the Luo sect and demolished its temples because of his concern about instability caused by the increasing growth of the sect (He 2009a). This led the Luo sect to set up ‘burning incense boats’ (‘香火船’: a kind of fleet floating on water) as a substitute for the major temples. As Martin (1996) has observed, the burning incense boat ‘replaced the temple-hostels as the organizational and religious nuclei of the boatmen’s association’ (p. 11). In this case, the proscription of the Luo sect was a key turning-point for its transformation from a secret religious denomination to an essentially secret association (Ma and Han 1992). Then it was again transformed with the establishment of Anqing Daoyou (‘安清道友’ which means ‘friends of the way of tranquillity and purity’) during the late 19th and early 20th centuries (Martin 1996). Anqing Daoyou was later renamed the Green Gang.

The Green Gang was primarily engaged in various illegal activities, for example illegal trafficking of salt and the collection of the unpaid debts for its members (Tan and Peng 2002). The Green Gang, as Xia (2008) in his paper ‘Organizational formations of organized crime in China’ indicated, was created through master-disciple relations: ‘twenty-four Chinese characters were assigned to the ladder of different generations, and another 24 characters were added as the Green Gang expanded’ (p. 8). In other words, the generation name (character or zi, ‘字’) was given to every new member and the positions of all members were basically dependent on their rank through generational position in its hierarchical ‘family’ tree. An applicant for membership had to get a recommendation from one Green Gang ‘boss’ (laotou, ‘老头’), and subsequently attend the membership ceremony. After these processes, he or she

became a member of the Green Gang and also a follower of his or her recommender—the initiating ‘boss’ (Bianco and Chesneaux 1972).

2.1.3. The Red Gang

Chinese historians offer four different versions of the origin of the Red Gang or *Gelaohui* (‘哥老会’): (1) *Gelaohui* has the same origin as *Tiandihui* (the Heaven and Earth Society). Both of them were established by Zheng Chenggong during the reign of Emperor Kangxi (‘康熙皇帝’) of the Qing Dynasty, and both were created to achieve the political mission of ‘overthrow the Qing and restore the Ming’ (fanqing fuming). (2) *Gelaohui* was founded during the reign of Emperor Qianlong (‘乾隆皇帝’) of the Qing Dynasty with the purpose of ‘overthrowing the Qing and restoring the Ming’; (3) *Gelaohui* is the secret brotherhood organization previously named *Guoluhui* (‘囡噜会’); and (4) *Gelaohui* was regarded as the combination of *Tiandihui* (the Heaven and Earth Society) and the White Lotus sect in the late Qing Dynasty (He 2009a).

Cai offered a new explanation of the origin after a thirty-year study of the history of the Qing Dynasty. This explanation has been generally accepted by academics. As Cai (Cai 2009) argues, the predecessor of the Red Gang was *Guoluhui* which was a secret brotherhood organization based in Sichuan province and established during the Qianlong reign (1736-1739). In the reigns of Emperor Jiaqing (‘嘉庆皇帝’) and Daoguang (‘道光皇帝’) (1795-1850), the Red Gang was formed through the integration of *Guoluhui* with the Sichuan branches of the Heaven and Earth Society and the White Lotus sect (also see: Qin and Meng 2000).

The freight/goods/passenger traffic in the middle and lower reaches of the Yangtze River (from the city of Chongqing to Shanghai via the city of Yichang in Hubei province) mainly depended on wooden ships, requiring a large number of sailors, helmsmen and trackers. These employees lived in a situation of great difficulty and perplexity, making them more likely to form self-help groups in order to guarantee their basic livelihood. Moreover, different parts of the river needed different amounts of labour, which resulted in a large number of surplus sailors retained in the Chongqing area without ensuring a minimum standard of living (Qin and Meng 2000).

Chongqing in the late Qing dynasty was a region with harsh natural conditions and adverse living circumstances that made things even worse: more and more unemployed sailors either joined Guoluhui or became beggars. Guoluhui had amalgamated with Qinglianjiao ‘青莲教’ (one subgroup of the Heaven and Earth Society) in 1821, becoming a hybrid organization including the main characteristics of Tiandihui. The new organization was called ‘the Red Gang’ in order to distinguish it from its original organization (Zhou and Shao 1993).

Originating from both Guoluhui and the Heaven and Earth Society, the Red Gang was a powerful organization composed of sworn brothers based on fictive kinship. ‘Mountain’ (Shan), ‘lodge’ (Tang), ‘shrine’ (Xiang) and ‘river’ (Shui) were names used by subgroups in the Society of Brothers. The chief of each ‘mountain’ was called ‘dragonhead’ (He 2009a). Although the Red Gang was an organization of sworn brothers, the relationship between the dragonhead and ordinary members was hierarchical (Xia 2008). The Red Gang was strictly organized; for example, it

established the code of discipline called ‘Ten Articles’ and ‘Ten Clauses’ to promote consensus by creating common knowledge and regulate behaviours that are damaging to the organization (also see: Leeson and Skarbek 2010). In addition, a large number of the Red Gang members joined the Xiang army (‘湘军’), so these gang leaders and their followers became the main force in the repression of the peasant uprising of the Taiping Heavenly Kingdom.¹³

2.2. The formation of the Red/Green Gang in the late Qing dynasty

In 1821, Emperor Daoguang of the Qing dynasty began to reform the water transport system. Grain transportation from southeast regions to the capital (the Forbidden City, ‘紫禁城’) was gradually shifted from river transport to maritime transport, which brought great challenges to the survival of the feudal Banghui (the secular secret associations) (He 2009a).

The ending of river transport after 1853 caused millions of sailors, most of them members of the Green Gang and the Red Gang, to lose their jobs. Secret societies like the Green Gang and the Red Gang were on the verge of collapse. However, a new Green Gang was established through a merger between its members (unemployed boatmen) and salt smugglers who belonged to *Qingpidang* (‘青皮党’), the well-structured criminal organization that emerged during the reigns of Emperors Jiaqing and Daoguang of the Qing Dynasty (1799-1850) (Zheng 2000). The

¹³ The Xiang Army, a standing regional army legalized by the Qing government and headed by Zeng Guofan (曾国藩), was a major force in the suppression of the Taiping movement, which was a massive war in Southern China from 1850-1864. For more information, please see: Shunshin Chin, *The Taiping Rebellion* (Sharpe, 2001).

smuggling of salt in Huainan and Huaibei regions became the main financial support of the new Green Gang (He 2009a).

During the late 19th and early 20th centuries, a huge number of Green Gang members migrated from the Huainan and Huaibei regions to the trading ports of Shanghai, Zhenjiang and Nanjing (He 2009a; Martin 1996). Meanwhile, the Xiang Army was disbanded after 1864 when the Taiping troops were defeated, which resulted in large-scale layoffs. Millions of unemployed people returned to or joined the Red Gang. They became new competitors of Green Gang members as both derived their main income from salt smuggling, leading to uninterrupted conflicts. An agreement between the two parties was eventually reached: the Red Gang took charge of opium trafficking along the Yangtze River, while the Green Gang monopolized the smuggling of salt.

In the early 1920s, Red Gang and Green Gang members based in the three trading ports merged into a big family—the Green/Red Gang¹⁴— by relaxing their organizational structures to become more receptive to each other (Xia 2008). Gang members of these two secret societies continued to work independently in other areas.

In the late Qing dynasty, a large number of people joined the feudal Banghui in order to earn a living. Extensive research shows that the feudal Banghui (e.g. the Red Gang, the Heaven and Earth Society, and the Green Gang) shared common features with

¹⁴ The amalgamation of both the Green Gang and the Red Gang happened mainly in the lower areas of the Yangtze River, including Zhejiang Province, Jiangsu Province, and the City of Shanghai. The two organizations in other provinces still retained their original names because the level of amalgamation was limited.

long-standing mafias in other countries, such as the Sicilian Cosa Nostra, the Japanese Yakuza, and the Russian mafia. To be specific, these secret societies acted as the quasi-governmental institutions, providing extra-legal protection for these helpless people. The involvement of the Red Gang and the Society of Brothers in the repression of rebellions or the fights against local governments, as Cai (1987) and Qin (2009) state, grew out of the desire for better living conditions rather than a wish to displace the Qing dynasty.

Illegal activities in which the Green/Red Gang mainly engaged can be categorized into four aspects: salt smuggling, opium trafficking, women trafficking and prostitution, and gambling. First, salt smuggling brought huge profits to the Green/Red Gang. Despite government control of the production, distribution and sale of salt, a huge price differential between various regions resulted in a massive increase in smuggling. On the one hand, Gelaohui in the upper areas of the Yangtze River engaged in smuggling Sichuan well-salt (‘井盐’)—the best salt in China. On the other hand, the Green/Red Gang controlled the smuggling of the salt produced by saltworks in the Lianghuai area (Huainan and Huaibei areas) and Zhejiang province (Wu 2008).

Opium trafficking was another economic backbone of the feudal Banghui until the opium trade was legalized by the Qing government in 1858. In the 1880s and 1890s, the demand for opium increased dramatically in the southeast coastal region. Benefiting from their abilities to use organized violence, the feudal Banghui and warlords succeeded in regulating the opium trade (He 2009a). Entrepreneurs involved in the opium trade had to purchase protection from the Banghui or

warlords, otherwise they would be extorted by gangsters. In order to maximize profits, the Red/Green gang also established opium dens (*Ibid*).

Moreover, women trafficking and prostitution were monopolized by the feudal Banghui. By the end of the 19th century, Shanghai had become a booming metropolis containing a large number of brothels. These brothels were managed by the feudal Banghui both directly and indirectly; Green and Red Gang members either managed brothels by themselves or trafficked females from inland China to Shanghai and sold their victims to brothels (Cai 2009). Finally, in the late Qing dynasty, the common gambling house was one of the most popular leisure centres, bringing huge profits to the feudal Banghui. In cities like Shanghai, Nanjing and Zhenjiang, most gambling houses were owned by Green and Red Gang bosses. Although some gambling houses were established by non-gang members, they had to obtain protection from the Green/Red Gang or warlords (Tan and Peng 2002).

3. Chinese organized crime in the Republic of China (1912-1945)

The Revolution of 1911 overthrew the Qing dynasty. But the end of the 270-year-old rule of the Qing government and the establishment of the Republic of China did not bring social stability to Chinese society. A number of wars happened after the end of the feudal system, for example, constant fighting among warlords (1916-1928), the Anti-Japanese War (1937-1945), and the civil war between the Kuomintang (KMT) and the Communist Party of China (CPC) (1945-1949) (Liu 1981). Long-lasting wars made the government unable to satisfy people's basic needs, which created favourable conditions for the emergence of private organizations providing primitive state functions. Banghui organizations in the inter-war period achieved rapid

development: the scale of their illegal businesses was gradually expanding, the cooperation between secret associations and warlords was unexpectedly close, and the criminal-political nexus between dragonheads and political leaders was widely established.

The development of the Shanghai Green Gang, as Martin (1995: 64) argues, 'was closely linked to the important demographic and social changes associated with the emergence of Shanghai as an important industrial and commercial center'. This part offers an in-depth analysis of the Shanghai Green Gang, the most powerful Chinese criminal organization in the early 20th century, emphasizing three aspects: the emergence of the 'three Shanghai tycoons', the 'three Shanghai tycoons' as businessmen and the collusion between Green Gang bosses and political leaders.

3.1. The emergence of 'three Shanghai tycoons'

The history of the Shanghai Green Gang has been extensively studied by historians, especially those from Shanghai (see: Guo 1996; Shao 1997; Su 2010; Zhou and Shao 1993). According to Su (2010), Shanghai in the early 20th century was divided into three administrative regions: the French Concession, the International Settlement and China's administrative region. Weak law enforcement and miscarriages of justice caused a power vacuum which stimulated the development of secret societies. On the other hand, opium trading, gambling, and prostitution had become main sources of revenue for both the Chinese government and the colonial authority (Zhou and Shao 1993). The most powerful bosses who were able to regulate these illegal businesses were three tycoons from the Green Gang: Huang Jinrong, Du Yuesheng, and Zhang Xiaolin (He 2009a).

The establishment of Huang Jinrong as a tycoon of the Shanghai criminal underworld was due to a combination of reasons (He 2009a; Su 2010). In the early 1900s, population explosion, coupled with an increasing threat of organized crime as well as the emergence of a huge floating population, brought great troubles to the French colonial administration. French policemen found it extremely difficult to maintain social order as they did not understand Chinese language and culture. Under such circumstances, the colonial government implemented an effective crime prevention strategy named 'devil must be driven out with devils'—employ Green Gang members as police officers to crack down on criminal activities committed mainly by Green Gang members (Su 2010; Zhou and Shao 1993). Huang Jinrong, a senior Green Gang member, was selected as a police officer.

Pulling himself up from the bottom of the society, Huang established wide social networks, especially within the Shanghai Green Gang, and had an in-depth understanding of all social strata. Fictive kinship ties and sharing information on criminal activities within the Shanghai Green Gang allowed Huang to identify criminals, and thus street crime and violent crime (e.g. theft, burglary and robbery) were reduced. In return, Huang was promoted all the way to Captain-Superintendent of police in 1924 (Su and Chen 2004). Meanwhile, Huang established his reputation within the Shanghai Green Gang because gang members involved in criminal activities received less-severe or no punishment (Su 2010). Between 1892 and 1945, Huang became one of the most powerful protectors safeguarding organized crime groups (e.g. the Shanghai Green Gang) in the French colonial concession.

In the early 1900s, Du Yuesheng joined the Shanghai Green Gang and became the 'pupil' of a senior gang leader, Chen Shichang. In 1907, Du was introduced by Chen to Huang Jinrong and became a key member of the Huang Jinrong group (Zhang 1981). Du made important contributions to the Huang Jinrong group, for example introducing Huang to Zhang Xiaolin, one of the three Shanghai tycoons; the establishment of The Small Eight Mob¹⁵ (*Xiao Bagudang* '小八股党'); and the creation of *Sanxin* Company ('三鑫公司') which engaged in the opium trade in the French colonial concession (Zhou and Shao 1993; Zhuang 1994). Although Du was relatively low on the generational level (he belonged to the Wu status group which was two generations lower than Tong), this did not prevent him from exercising 'authority over Green Gang members who belonged to Tong or Kong groups' (Martin 1996: 20). Zhang Xiaolin, a senior Green Gang member, possessed extensive networks with warlords and political leaders in east China.

Gang members in Shanghai were frequently involved in opium robbery in order to make their living. Two of the most famous groups to establish their reputation in this field were *Da Bagudang* (the Big Eight Mob) and *Xiao Bagudang* (the Small Eight Mob) (Qin 2009). The Big Eight Mob, consisting of eight gang members, was established by Shen Xingshan, an influential gang leader in the International Settlement (Zhou and Shao 1993). Opium dealers in the International Settlement

¹⁵ The Small Eight Mob was established by Huang Jinrong and Du Yuesheng to challenge the dominant role of the Big Eight Mob (*Da Bagudang*, '大八股党') in the Shanghai criminal underworld. The establishment of the Small Eight Mob allowed Huang and Du to take over the Big Eight Mob's protection business and to regulate the opium trade in Shanghai. For more information, please see: Brian G Martin, *The Shanghai Green Gang: Politics and Organized Crime, 1919-1937* (University of California Press, 1996).

were required to pay protection in order to avoid robbery conducted by street gangs (including the Big Eight Mob).

The Big Eight Mob succeeded in moving from robbery to protection when most opium dealers paid 'tax' to avoid robbery. Through this strategy, the opium trade in the International Settlement was all but monopolized by Shen Xingshan (Qin 2009). However, huge profits prompted the rise of competitors. Under the instructions of Huang Jinrong, Du Yuesheng established the Small Eight Mob, which aimed to disturb the Big Eight Mob's protection business.

The implementation of 'anti-smoking' policies in the International Settlement forced over 1,400 opium traders to resettle their businesses in the French Concession (Guo 1991). Taking advantage of the mutually beneficial network between the Huang Jinrong group and the colonial authorities, Huang and his two colleagues, Du Yuesheng and Zhang Xiaolin, established the Sanxin Company (the Three Prosperities Company), which enabled them not only to control the opium trade but also to establish themselves as tycoons of the Shanghai criminal underworld.

3.2. Three Shanghai tycoons as businessmen

Based on organized violence and extensive networks with warlords and colonial authorities, the Huang Jinrong group monopolized traditional illegal businesses such as illicit drug distribution, gambling and prostitution (Qin 2009; Su and Yao 2005). The three Shanghai tycoons, however, were never satisfied. They exploited Shanghai's booming economy by expanding their sphere of influence to new areas, including banking, shipping, and food supply (Su and Chen 2004). All these efforts

made them not only dragonheads in the criminal underworld but also business leaders exerting great influence on economic development in Shanghai.

'Sanxin' Company

During the late 1910s and early 1920s, an anti-narcotics campaign within the International Settlement aimed to eradicate the opium trade. This threatened the protection business of the Big Eight Mob, and Shen Xingshan's opium dens were closed. The Green Gang leaders, especially the three tycoons in the French Concession, took advantage of this opportunity to strengthen their control of the opium trade in Shanghai (Martin 1996). Shen was forced to sign an agreement with Huang Jinrong in which Shen promised to move all opium dens from the International Settlement to the French Concession.

In 1918, Sanxin Company (the Three Prosperities Company) was set up. This company was popularly referred to as 'Big Company' because it was composed of a great number of shareholders, including the Shanghai Green Gang (with Huang Jinrong as the representative), Chiu Chow opium traders, the colonial authorities, and warlords in east China (Su and Yao 2005). Although the Big Company distributed its illegal benefits to a wide range of people, it was wholly controlled by the three tycoons: Du Yuesheng was appointed by Huang Jinrong as managing director of the 'Big Company', Zhang Xiaolin and Jin Tingsun were deputy managers, and Jin Tingsun was also the virtual head of the business (Martin 1996).

The Sanxin Company functioned like an insurance company providing protection for opium traders; in return, traders had to pay large amounts of money (10 percent of

the total value of the opium) to Sanxin Company (Zhang 1981). Only opium with the stamp of Sanxin Company could be sold in the French Concession. Although the stamp tax was an extra financial burden, opium traders were willing to pay because Sanxin Company offered them genuine protection. Moreover, the 'Big Company' was a 'super opium market' as it directly engaged in the opium trade and possessed the ability to manipulate the price of opium. Opium from Sanxin Company was distributed not only in the French Concession but also in the International Settlement as well as all the provinces and municipalities in China (Su 2010).

The monopolization of the opium trade brought a total income of Ch\$ 56 million per year to Sanxin Company, equating to 14 – 20 percent of total state revenue (Su and Yao, 2005). The secret for Sanxing Company's success was its ability to create 'the collusion with the Chinese authorities in Shanghai, the tacit cooperation with the French authorities, and the efficient network with the warlords in east China' (Martin 1996: 63).

Banking

The three Shanghai tycoons, especially Du Yuesheng, expanded their sphere of influence in Shanghai's legal industries. Du succeeded in establishing himself as a business leader through investing in banking, the shipping industry, the city's food supply and the establishment of the Shanghai Municipal Fish Market (Martin 1996). With the help of the famous banker Qian Xinzhi, Du established the Zhonghui Bank in 1929 (Su and Chen 2004). In contrast with ordinary banks which offer public services, the Zhonghui Bank was established for providing personalized bank services to opium drug traders and Green Gang members (He 2009a).

Du Yuesheng exerted great influence on Shanghai's banking system (Bao 2010). For example, he was able to put a financial institution on the edge of collapse by ordering a large number of Green Gang members to withdraw their deposits or demand cash at the same time. On the other hand, banks under Du's protection were able to survive without strong government support even in a deep recession. For example, the Zhonghui Bank rescued the Shanghai Commercial Bank (Shanghai Shangye Chuxu Yinhang) and the Siming Bank from bankruptcy (Xu 1982). As Martin (1996) reveals:

'Du Yuesheng took over the Jiangsu-Zhejiang Commercial and Savings Bank in 1936. He also established the Minfu Union Commercial Bank (Minfu Shangye Chuxu Yinhang) in August 1933, and two years later he was instrumental in the establishment of the China Investment Bank (Guoxin Yinhang), in association with his fellow Green Gang boss Zhang Xiaolin and leading Shanghai bankers such as Lin Kanghou. Du also had major interest in both Pudong Commercial Bank (Pudong Shangye Chuxu Yinhang), which had been set up in 1928 and of which he became chairman some years later, and the Bank of Asia (Yazhou Yinhang), which was established in 1934 by Li Yaozhang and others...Du set up two banks in Chongqing, the Yong Cheng and the Fu Hua, in association with the Sichuan warlord Fan Shaozeng, one of his business partners in the narcotics traffic, and Gu Jiatang, a leading member of the Small Eight Mob' (p. 195).

Du's hegemonic position in the Shanghai banking world meant that nobody could open or run a bank without his permission. His position was unassailable.

Shipping

In 1933, Du Yuesheng gained control over the Da Da Steam Navigation Company (DDSN, ‘大达轮船公司’) (Guo 1999b). The acquisition of the DDSN enabled Du to monopolize the shipping industry in the northern region of Jiangsu. The DDSN, established by the Zhang Family—Zhang Jian and Zhang Cha—in 1903, was a leading enterprise which dominated the shipping routes from Shanghai to Yangzhou (Su 2010).

The DDSN suffered a number of severe crises during the 1920s and the early 1930s, creating an excellent opportunity for Du to get involved. First, as is typical in China even today, the company suffered a crisis of reputation when company head Zhang Jian died in 1925. Second, Zhang Cha was forced to leave his job because he was designated as a ‘reactionary’ by the Chiang Kai-shek government. Third, the company's underlying profitability was largely destroyed by a disaster in 1931 which resulted in the death of over 1,000 passengers and the sinking of two steamers (Guo 1999b). Fourth, the DDSN lost its financing support due to the collapse of its banker—the Deji Native Bank (Deji Qianzhuang). This was the final blow. With the help of Yang Guanbei, who was one of Du's leading followers and economic advisors, Du Yuesheng obtained absolute control over the DDSN. As Martin (1996) observes:

‘Taking advantage of the DDSN's financial disarray, Yang Guanbei sought to gain leverage in the company by arranging for the Zifeng Native Bank (Zifeng Qianzhuang) to purchase a nominal shareholding of Ch\$3,000 in the DDSN on behalf of himself and Du Yuesheng...During the negotiations over the composition of the new Board of Directors, Du strengthened his position by resort to strong-arm gangster tactics’ (p. 203).

By using Du's influence in the Green Gang, the company's business experienced a change from bad to good (Martin 1996). For example, Yang Guanbei was able to resolve disputes between the DDSN and bandits by using Du's relationships with senior Green Gang members in Jiangsu province. All commercial enterprises in the Lake Hongze region, including the DDSN, were disrupted, however, by frequent extortions conducted by bandits, most of whom were Green Gang members. In order to deal with this problem, Gao Shikui, an influential Green Gang member, was invited by Du to persuade these bandits not to disturb DDSN's businesses (He 2009a; Martin 1996). The bandits agreed to 'protect' the DDSN when they realized Du Yuesheng was the company's new boss. In return, many bandit leaders joined the DDSN and took a share of the profits (He 2009a). As a result, the DDSN again became the dominant enterprise in southern Jiangshu.

In the same period, Du Yuesheng and Yang Guanbei set up the Da Xing Trade Company (Da Xing Maoyi Gongsi) in Shanghai. This company was a trading conglomerate 'that not only ran separate shipping services for passengers and freight but also provided agency services for local merchants, which even included arrangements with the Shanghai banks for a bills of exchange facility' (Martin 1996: 204). The acquisition of the DDNS and the creation of the Da Xing Trade Company contributed enormously to commercial and industrial development in Jiangsu and Shanghai, establishing Du Yuesheng as a business leader.

Food supply and the Shanghai Municipal Fish Market

Controlling fish supply chains was another important business for the three Shanghai tycoons, because 'the Shanghai market in the 1930s represented about half of the

estimated total annual demand for fish in China, just under Ch\$51 million out of Ch\$100 million' (Martin 1996: 208). Huang Jinrong controlled the distribution of fish in Shanghai until the mid-1930s through his 'sworn brother' relations with 23 fish traders located in the Marche de l'Est (Su 2010). Du Yuesheng had also been involved in the fish business since he became one of Huang's leading followers.

Huang was gradually replaced by Du because Du managed to set up strong ties with the Kuomintang government. In 1933, the KTM authorities planned to establish a central fish market in order to 'gain access to the largest and most profitable fish market in China, as well as to control the supply of basic food items in Shanghai' (Martin 1996: 209). This government plan was consistent with the ambition of Du Yuesheng, who sought to enlarge his influence in the frozen fish business. As a result, the Shanghai Municipal Fish Market located in the Point Island site opened for business in 1936, and Du Yuesheng was appointed the Chairman of the Board of Directors (Yao and Qiu 2001).

The relocation of the fish market directly undermined the dominant position of Huang Jinrong (Martin 1996). In response, Huang encouraged thirteen seafood traders to go on strike to express their dissatisfaction with the compulsory relocation. After identifying the causes of this protest, Du Yuesheng persuaded Huang Jinrong to support the relocation by promising to guarantee Huang's interests in the new system, and Du did fulfil his promise (Bao 2010). Consequently, all the fish traders and the Zhoushan 'fish barons' (who owned the fishing fleets) were forced to conduct all transactions in the Shanghai Municipal Fish Market.

Establishing new clubs

In order to get a legal basis for their activities, Shanghai Green Gang bosses established individual organizations. In contrast with the traditional Green Gang, new clubs avoided hierarchies in order to extend and consolidate Green Gang bosses' diverse commercial and financial interests. Since the 1930s, a number of new clubs had been established, three of which were the most influential: Du Yuesheng's Endurance Club (*Heng She*), Huang Jinrong's Loyalty Club (*Zhongxin she*), and Zhang Renkui's Benevolent Society (Ren She) (Martin 1996).

Taking the Endurance Club as an example, Du obtained approval from the Chiang Kai-Shek government and registered this club in the French Concession in 1932. Members of this club were billionaires and politicians rather than displaced/unemployed migrants (Qin 2009). Du's Endurance Club had 223 members in April 1934, among them 120 businessmen, 30 police officers, 27 government officials or party members, 11 military officers, and a number of bankers (He 2009a). Applicants preparing to seek membership in the Endurance Club needed to get recommendations from two club members, and qualification requirements and admission standards were strictly enforced before membership was granted. Furthermore, entry into the Endurance Club entailed elaborate initiation ceremonies (Guo and Fan 1986).

In parallel with the Endurance Club, the Benevolent Society, established in 1935, and the Loyalty Club, established in 1936, adopted a similar organizational structure: rankings within new clubs were determined by influence rather than the 'generational hierarchy' (He 2009a). This created favourable conditions for the Shanghai Green Gang to extend its influence into Shanghai's economic and political

systems. The creation of new clubs by Green Gang bosses benefited from their close ties with the Kuomintang government, but it did not change the nature of the Shanghai Green Gang, as it still derived its main source of income from illegal businesses.

3.3. Collusion between the Shanghai Green Gang and the Chiang Kai-shek government

The development of the Shanghai Green Gang was inseparable from the support given by Chiang Kai-shek (Jiang Jieshi), the military and political leader who served as Chairman of the National Military Council of the Nationalist government of the Republic of China (ROC) from 1928 to 1948. Chiang joined the Shanghai Green Gang at the invitation of Yu Qiaqing, an influential businessman, and became a ‘pupil’ of Huang Jinrong in 1922. Huang Jinrong rescued Chiang from a debt crisis and provided financial support for Chiang to join the movement fighting against the northern warlords (Su 2010).

The relationship between Huang Jinrong and Chiang Kai-shek was a private teacher-student friendship, and the collusion between the Kuomintang (KMT) and the Shanghai Green Gang did not begin until April 12, 1927 (Su and Chen 2004). The Shanghai Green Gang functioned as the key enforcer in Chiang Kai-shek’s seizure of state power in the April 12 Incident of 1927 as well as Chiang Kai-shek’s move to achieve financial control of the Commercial Bank of China (*Zhongguo Tongshang Yinhang*).

The April 12 Incident, also known as the Shanghai massacre, involved the violent suppression of Chinese Communist Party organizations in Shanghai by both Chiang

Kai-shek and the Shanghai Green Gang, during which many prominent communists were imprisoned or massacred (Coble Jr 1979). This incident enabled Chiang Kai-shek to destroy the communist-dominated labour unions in Shanghai and restructure his power base. The Shanghai tycoons became the enforcers of the Chiang Kai-shek government and prospered greatly therefrom.

With the help of Shanghai Green Gang boss Du Yuesheng, the Kuomintang (KMT) successfully gained control of the Commercial Bank of China (*Zhongguo Tongshang Yinhang*) in 1935. The Commercial Bank of China was the first modern Chinese-owned bank, established on 27 May 1897 by Sheng Xuanhuai. From 1919 to 1935, Fu Xiaolan, the subordinate of Sun Chuanfang who was the head of the Zhi clique of warlords¹⁶ (‘直系军阀’), was the bank’s president (Hu 1999). The relationship between Fu and Sun, however, led to Fu’s estrangement from the Kuomintang (KMT), because the Kuomintang was a military competitor of the Zhi clique of warlords. As a result, Fu Xiaolan and his bank suffered a serious crisis after the Kuomintang (KMT) took control of Shanghai.

In 1935, a run on the bank engineered by Chiang Kai-shek and Du Yuesheng put the Commercial Bank of China on the verge of collapse, creating a good opportunity for the KMT to gain control of it (He 2009a). Chiang Kai-shek ordered the Bank of China and the Communication Bank to buy a large sum of bank bonds clandestinely issued by the Commercial Bank of China. Meanwhile, Du Yuesheng instructed a large number of Green Gang members to deposit significant amounts of money into the Commercial Bank and then all withdraw their deposits at the same time (Hu, 1999).

¹⁶ The Zhi clique of warlords was the most powerful in East China in the early 1920s.

A bank run led to an unprecedented economic collapse, forcing Fu Xiaolan to ask the Kuomintang government for help. A capital injection from the Bank of China and the Communication Bank transformed the Commercial Bank of China from a private bank into a state-owned bank. In return, Du Yuesheng was appointed by the Kuomintang government as the new president of the Commercial Bank of China.

Mutually-beneficial networks between the Shanghai Green Gang and the Chiang Kai-shek government deteriorated after Japan lost the war in 1945. This was due to a combination of reasons. The formal return of most concessions to the Kuomintang government meant that the Shanghai Green Gang could not continue to earn its living through exploiting the vacuum created by the colonial governments. Meanwhile, the Chiang Kai-shek government was strong enough to control Shanghai through its military and the police rather than obtaining help from gangsters. In other words, the end of the war with Japan signalled that the Shanghai Green Gang was no longer important for the Kuomintang government. As Du Yuesheng said, 'Chiang Kai-shek treats me as a urinal device: he only comes to me when he is in need, otherwise he puts me under the bed' (Guo 2004: 38).

4. The end of 'three Shanghai tycoons' and the disappearance of Chinese secret societies (1945—1978)

The victory of China in the war with Japan was a turning point for Chinese secret societies. State power was finally strong enough to fulfil the social obligations which the Green Gang had previously fulfilled in Shanghai. The Green Gang was no longer a useful partner for the Kuomintang government. The Chinese government now viewed the Green Gang as a deviant social organization, damaging public order and

the fundamental functions of the financial system. The Chinese civil war (1945-1950) between the Kuomintang government and the Communist Party of China did not bring any hope for the Green Gang. The communist conquest of China marked the end of Chinese secret societies.

Du Yuesheng left Shanghai for Hong Kong in 1947, dissatisfied with the unequal treatment by the Kuomintang. Du held secret talks with the communists in order to weigh the advantages and disadvantages of cooperating with the Communist Party or the Chiang Kai-shek government, finally deciding not to cooperate with either. He refused to return to Shanghai after the Communist Party of China occupied the city; he was fearful of potential reprisal from the communists because of his involvement in the April 12 Incident (Xiao 2001). Du also refused to fly to Taiwan because the Chiang Kai-shek government would not appoint him to an important position. He settled in Hong Kong, where mental stress and lower living standards brought him serious health problems and he died on 10 August 1951 (Lu 2004).

Huang Jinrong did not leave Shanghai for two reasons. First, Huang would lose everything he possessed because most of his followers and his properties (e.g. entertainment centres and gambling dens) were based there. Second, Huang was persuaded by the Communist Party of China that they would protect his safety and property (Lu 2004; Xiao 2001). But the Party did not keep its promise. Huang Jinrong was forced to close all his illegal businesses. The Party was also keen to suppress the Green Gang and ordered Huang, the Green Gang boss, to write a statement of repentance (Wang 2006). This statement of repentance persuaded most Shanghai Green Gang members to give up all resistance to the Communist Party. Huang

Jinrong died on June 22, 1953 and this marked the end of the 'three Shanghai tycoons'. From 1949 to 1953, the Chinese Communist Party succeeded in eradicating secret societies (Banghui) in mainland China. They managed this through a series of campaigns:

- **Eliminating anti-communist Banghui.** Working closely with the Kuomintang, Banghui members played an important role in anti-communist activities. In this case, cracking down on anti-communist Banghui was an important task for the Chinese Communist Party. From the establishment of new China in 1949 until June 1950, over one million gangsters were arrested (Tan and Peng 2002).
- **The prohibition of the opium trade.** During the late Qing dynasty and the period of the Republic of China, the opium trade was the main source of finance for Chinese secret societies, especially the Green Gang (Qin 2009). After the establishment of the People's Republic of China, the central government adopted a series of strategies to prohibit drug trafficking and illicit use of drugs, such as establishing drug rehabilitation centres, providing compulsory treatment for drug abuse and launching wars against drug trafficking (He 2009a; Tan and Peng 2002).
- **Forbidding the prostitution industry.** Before the establishment of New China in 1949, tens of thousands of brothels located in different cities and provinces resulted in the spread of sexually-transmitted diseases. Prostitution was also considered as incompatible with equality for women. From 1949 to 1960, the Communist Party of China launched a series of

campaigns that prohibited prostitution in mainland China (Ma 1993). Meanwhile, a large number of correctional institutions were created in order to accommodate these prostitutes, treat their illnesses and help ex-prostitutes back into society. In the late 1950s, an overall victory was achieved in combating prostitution and controlling the transmission of sexually-transmitted diseases (Su and Chen 2004).

He (2009a) explores the reasons why the Chinese Communist Party succeeded in eradicating long-standing Banghui. The main factor contributing to its success, according to He, is that anti-crime was based on large-scale 'mopping-up' campaigns as well as violent repression. In contrast with He's viewpoint, this thesis interprets the apparent extinction of organized crime in the Mao era as a result of the disappearance of large-scale 'floating' populations (displaced and homeless immigrants).

Shortly after the Communist takeover in 1949, senior Banghui members who refused to cooperate with the Communist Party of China or engaged in anti-communist campaigns were massacred (also see: Qin 2009). A large number of gang members and prostitutes were sent to reform centres and re-entered society as workers after the accomplishment of their socialist transformation. As a result, a great number of gangsters and sex workers were transformed from displaced/homeless persons to qualified builders of socialism.

The political-criminal nexus was destroyed because Banghui was a class enemy in Mao's China rather than a political enforcer under Kuomintang rule. Furthermore, citizens lost all their private property rights after the socialist transformation of

agriculture, handcrafts, industry and commerce. Drawing on Gambetta's (1993) and Varese's (2001) theories, it can be argued that the great transformation in society and the establishment of the centrally-planned economy eliminated what some argue to be the soil for breeding organized crime in relation to the supply of extra-legal protection.

The Great Proletarian Cultural Revolution in the period 1966 – 1976, however, threw the country into a state of anarchy. As Tsou argues, the Cultural Revolution 'has not only destroyed the Party organization and badly disrupted the government bureaucracy, but has also inflicted serious damage on the relationship of authority which had been established in Communist China' (Tsou 1969: 90). Most scholars and the Chinese authorities believe that organized crime did not exist in mainland China during the period of the Cultural Revolution. In contrast with the mainstream viewpoint, Qiu¹⁷ suggests that a certain type of protective association (or extra-legal protection group) could emerge in a state of anarchy so as to offer protection and social services for needy persons.

The socialist transformation of industry and commerce and the collectivization of agriculture resulted not only in the disappearance of private property and commercial transactions, but also in the extreme poverty of the common people. This may imply that openings existed for mutual-aid associations which guaranteed the basic living needs of helpless citizens. The resurgence of mutual-aid associations and their activities during the Cultural Revolution could offer a new direction for the study of extra-legal protection in China.

¹⁷ Qiu Geping, personal communication, e-mail message to author, 15 December 2010.

5. The resurgence of Chinese organized crime in post-Mao China

Radical changes have taken place in mainland China since China adopted reform and opening up policies in 1978. Alongside the Chinese economic miracle, organized crime has been returning to Chinese society. 'The evolution theory of organized crime' suggested by He Bingsong argues that the rebirth of Chinese organized crime has undergone an evolutionary process in the past three decades, shifting from ordinary criminal groups to criminal syndicates with an underworld nature (organizations with the character of black society), to fully-fledged black societies and finally to transnational organizations (He 2001). The evolutionary process of Chinese organized crime, according to He, can be divided into three stages: the proliferation of criminal groups and the first 'strike hard' campaign from 1978 –1989; the development of organizations with an underworld nature as well as the political-criminal nexus in the 1990s; and black societies as businesses and the involvement of police officials in the criminal underworld in the new century.

5.1. The proliferation of criminal groups and the first 'strike hard' campaign 1978 – 1989

Since the beginning of Deng Xiaoping's economic reforms in 1978, organized crime has re-emerged in mainland China (He 2001). In the period 1978 – 1989, China witnessed a climbing crime rate, the growth of violent crime, and an increase in youth violence. Available statistics for this period suggest that 'the overall period from 1975 through 1983 was still interpreted as the most severe "high tide" of crime' since the founding of new China in 1949 (Tanner 2000: 100).

As a response, China's law enforcement agencies, under the leadership of the Politics and Law Commission of the Central Committee of the Communist Party of China, embarked upon a nationwide anti-crime campaign named *Yanda* ('严打') or 'strike hard' in July 1983. Tanner (2000) argues that the quick decision to start the Yanda campaign reflected a deep fear among the leadership that 'without a decisive show of state force, not only would criminals not be deterred from crime, but ordinary citizens would also be unwilling to give the state the popular assistance it needs to maintain social order' (p. 94).

'Strike hard' is an extreme form of anti-crime policy based on 'severity and swiftness', seeking to achieve the objective of maintaining social and public order. According to Susan Trevaskes, "'severity" applied as a sentencing rationale involves meting out comparatively harsh punishment within the scope of the law; "swiftness" is the speeding up of criminal procedure to deal with targeted criminals in a timely manner, often within two weeks of their arrest' (2007: 24).

The first nationwide Yanda campaign started in 1983 and lasted for three and a half years. It consisted of three major periods. The first initiative cracked down on over 100,000 criminal groups; then 31,000 criminal groups were destroyed and 130,000 members were rounded up in the second period; finally, the third period focused its attention particularly on cracking down on organizations with an underworld nature (Bakken 2005). As a result of the first nationwide Yanda campaign, around 197,000 criminal groups with 876,000 members were destroyed (He 2001); 322,000 members were sent to 'education through labour' camps, while more than 15,000 underage law-breakers were sent to the detention centres for youths (Xia 2006: 159).

Surprisingly, more than 30,000 people were sentenced to death, including some sentenced to death with a two-year reprieve (Tanner 2005: 175).

In addition to street crime and violent crime, Chinese organized crime groups increasingly engaged in transnational or trans-provincial crime, for example drug trafficking and human (women and children) smuggling. Organized criminal groups which engaged in drug trafficking formed complicated networks with drug kingpins in the Golden Triangle, one of Asia's two main opium-producing areas, overlapping Burma, Vietnam, Laos and Thailand (He 2009a). Employing sophisticated weapons as well as modern communication and transportation tools, traffickers were able to control the purchase, transport, storage and distribution of illicit drugs in mainland China. Moreover, cooperating with drug dealers in Southern China, triad societies from Hong Kong and Taiwan set up a transportation route on the mainland which enabled them to transport drugs from the 'Golden Triangle' at the border with Myanmar (Burma) to Hong Kong and Taiwan via the Yunnan frontier and southeast China (Qiu 2011).

Trafficking in women from inland China to coastal provinces was another profitable business controlled by trans-provincial organized crime groups (He 2001). For instance, one criminal gang led by He Dushu in Sichuan province trafficked 180 women from eight cities, including Chongqing and Luzhou, in Sichuan province to 13 southeast coastal cities including Haikou and Wenchang. The majority of trafficking victims came to coastal cities in search of a better life for themselves or their families, but when they arrived they found themselves at the mercy of human traffickers,

who through threats and violence used them for sexual exploitation or forced labour (He 2009a; Wang 2013a).

5.2. The development of organizations with an underworld nature as well as the formation of the political-criminal nexus in the 1990s

Senior officials from the Ministry of Public Security demonstrated that the first nationwide 'strike hard' campaign achieved great success:

'There was a dramatic downturn in officially reported criminal cases, particularly in the first three months of the campaign. "Major" cases declined by 36 per cent from August to September 1983, and by 28.5 per cent more in October 1983. The decline continued through the first eight months of 1984, with the total number of criminal cases between January and August down 31 per cent from the same period in 1983' (Tanner 2000: 122).

The 'strike hard' campaign, as a strategy of crime prevention and social control, has been criticized as the 'bloodiest chapter in post-Mao Chinese politics' (Tanner 2000: 93). However, the rebound in crime rates after 1986 suggests that the first national 'strike hard' campaign failed to achieve its initial aim of creating necessary conditions for economic development. The crime rate was again on the rise by the late 1980s. For example, the number of criminal cases reached 1,616,879 in 1993, an increase of more than 164% in comparison to the 1983 figure. The number of destroyed criminal groups grew from 120,000 in 1992 to 150,000 in 1993. The number of arrested criminals also increased from 460,000 to 575,000 (He 2009a; Xia 2006).

In the early 1990s, loosely-knit and less-influential criminal groups accelerated their transition to complex and sophisticated criminal groups obtaining illegal control over a sizable portion of businesses in a particular area or a sizable portion of one type of business. These criminal groups are identified by the Chinese government as 'organizations with an underworld nature' or 'organizations with the character of black society'. Meanwhile, a close nexus had been established throughout China between gang members and local officials, especially these from the criminal justice system (He 2009a; Qiu 2008). The mutually-beneficial relationship between organized crime groups and corrupt officials enabled gang bosses to stay safe in anti-crime campaigns and to extend their influence in political and economic domains. What was noteworthy was that the first organization with the character of black society in the mainland was officially recognized and subsequently destroyed by the government in November 1992 (He 2001, 2009a).

The Pingyuan case: The first officially-recognized organization with the character of black society—the Pingyuan gang—was a transnational criminal organization originating from Pingyuan in Yunnan province. According to the national census conducted in 1990, the population of the Pingyuan area totalled 114,182, including 34,254 Hans, the majority ethnicity, and 79,928 ethnic group members (He 2009a). As Dong (2006) suggests, the Pingyuan gang was a quasi-governmental organization consisting of many subgroups, and all the members were from ethnic minorities and organized under the cloak of religion. The gang controlled not only 23 mosques but also part of the political power in Pingyuan. Many local officials were reported to be senior members of the gang (He 2009a). The objective of the Pingyuan gang was to

elect a local government which represented ethnic minorities and protected their interests. Drug and firearm trafficking offered financial resources for the gang (Dong and Ye 1993).

In the late 1980s and early 1990s, Pingyuan was a crucial transit centre for both transnational drug trafficking and firearm trafficking. At least 10 drug trafficking groups in Pingyuan had established long-term production-supply-marketing relations with drug traffickers from Hong Kong and Taiwan, as well as drug kingpins in Burma (Dong and Ye 1993). From 1989 to August 1992, 834 drug trafficking cases were resolved by the prefectural-level government and 113.38 kilograms of heroin and 982.44 kilograms of opium were confiscated. It was shown that all the heroin and half the opium were from Pingyuan. Moreover, the Pingyuan gang supplied illicit firearms and ammunition for criminal groups from over 20 provinces. From 1988 to 1991, the Public Security Bureau of Wenshan Autonomous Prefecture launched a campaign to crack down on firearm trafficking, resulting in the confiscation of 1599 illegal firearms, 20,000 bullets and 160 grenades (Cai 2002).

Since 1992, Chinese society, as Xia (2005: online) argues, 'has entered the stage of high crime and disorder'. A crime explosion in the late 1990s severely challenged the vital principle of the Chinese government—'stability overrides everything' (*wending yadao yiqie* '稳定压倒一切') (He 2001, 2009a). In response to that challenge, the central government launched the second national 'strike hard' campaign on 20 April 1996. This round aimed to crack down on organizations with an underworld nature and hooligans (Broadhurst 2013). Cutting the ties between criminals and government officials was regarded as necessary in the war against organizations with

the character of black society. From the beginning of the campaign in April 1996 to August 1996, more than 1,090,000 criminal cases were cracked.¹⁸

The second 'strike hard' campaign, however, failed to suppress organized crime, and the political-criminal nexus between gangsters and public sector officials became a serious problem for most cities. The Ministry of Public Security launched another nationwide campaign known as 'operation in winter' (*dongji xingdong* '冬季行动') from December 1996 to February 1997 (He 2001). Criminal cases revealed by this campaign suggest that many Chinese crime groups transformed themselves from street and violent gangs into well-financed and well-structured syndicates which obtained police protection through the establishment of the political-criminal nexus. Moreover, criminal syndicates increasingly adopted legal fronts and invested in legitimate businesses (Chen 2002). The involvement in both legal and illegal businesses provided financial resources for organized crime groups to bribe government officials.

From 1992 to 1999, more than a million criminal groups consisting of 3.76 million members were destroyed (Xia 2005). The fast growth of the economy and the increasing number of market transactions were not fully protected by the formal legal system, which enabled a number of criminal groups to earn their profits from the businesses of dispute resolution and debt collection.¹⁹ Moreover, many gang

¹⁸ Over 130,000 criminal groups with 670,000 members, among them 900 organizations with the character of black society with 5000 members, were destroyed in this four-month 'strike hard' campaign. For more, please see: M. Xia, 'Assessing and Explaining the Resurgence of China's Criminal Underworld', *Global Crime*, 7/2 (2006), 151-75.

¹⁹ Qiu Geping, personal communication, e-mail message to author, 27 August 2012.

bosses who possessed legal fronts succeeded in infiltrating the political system by becoming police officers or members of people's congresses or members of people's political consultative conferences. Their legal status allowed them to create extensive networks with legitimate businesses and government officials.

The Liang Xiaoming case: The Liang Xiaoming²⁰ gang was defined by the Chinese government as one of the most powerful organizations with the character of black society. It engaged mainly in homicides, robbery, blackmail, extortion, kidnapping, gambling and prostitution (He 2009a). Moreover, Liang Xiaoming and his followers were involved in the provision of extra-legal protection, e.g. debt collection and dispute resolution. Extra-legal protection services provided by this criminal group were, however, of poor quality. For instance, in 1994, the Liang Xiaoming gang was invited by businessman Liu Baogen to enforce a loan repayment. After the enforcement, the gang demanded Liu pay 580,000 RMB as a service fee rather than the 50,000 RMB (33.3 per cent of the enforced repayment) they initially agreed (Zhou 2001).

In June 1994, Liang Xiaoming was invited to settle a dispute in Changchun between a real estate development company and a construction company. The failure to reach an agreement was followed a violent incident which resulted in 12 staff from the construction company being injured. Based on their ability to resort to organized violence, the Liang Xiaoming gang established an outstanding reputation in the criminal underworld.

²⁰ Liang Xiaoming has another name Liang Xudong.

In order to obtain sufficient protection for his illicit businesses, Liang employed his social networks and money to become a police officer in the city of Changchun (He 2009a). Being a police officer enabled Liang to set up extensive social networks with government officials (Zhou 2001). A number of bank officers and entrepreneurs, including real estate developers, construction company owners and hotel managers, were extorted by Liang's followers (He 2009a). Liang and his police colleagues shielded these criminal activities from legal punishment. In addition, Liang Xiaoming invested the money gained through his illegal businesses in purchasing firearms, buying new cars, and establishing his own legal enterprises (Lin et al. 2000).

Private entrepreneurs were frequently forced by Liang and his gangsters to participate in gambling parties. Any refusal would result in revenge. In December 1996, Liang Xiaoming organized a gambling party in the Shangri-la Hotel and a number of businessmen were told to attend. Businessman Mr Zhou, who was invited but did not show up, had his legs broken as a result (He 2009a). Organized prostitution was under the charge of Du Rongjun, who was one of Liang's key members. Liang and Du controlled two big nightclubs through the use of threats and violence. Controlled by the Liang Xiaoming gang, massage girls were forced to participate in prostitution and give their earnings to Liang and Du (Ibid).

In order to expand his sphere of influence in Changchun's criminal underworld, Liang Xiaoming adopted various strategies to eliminate competitors (Lin et al. 2000). For example, Yu Yongqing, another influential 'godfather' in Changchun, was murdered by Liang in 1998 because the emergence of Yu Yongqing's gang challenged Liang's position in illegal markets. The organizational structure of Liang's gang was complex

but had a clear division of labour from top to bottom. A set of rigid principles was laid down by Liang and any members who violated these rules would be severely punished (Zhou 2004).

In August 2000, a local court in Changchun sentenced Liang Xiaoming and his six followers to death. Of the remaining 28 gang members standing trial, all were given prison sentences of between two and 20 years (Li and Gao 2000). Meanwhile, 35 government officials or party members, including five prosecutors, four judges and 15 police officials who protected the Liang Xiaoming group, were also given prison sentences (He 2009a).

5.3. Gangs as business entities and the changing role of corrupt police officers in the new century

In December 2000, the Ministry of Public Security ran a specialised campaign called 'dahei chue' (striking organized crime and eradicating evil forces) in order to increase its ability to control public order, which faced grave threat from serious organized crime. The number of organizations with the character of black society that this campaign destroyed was 66, and the number of arrested gang members was 1466 (Qiu 2010b). In April 2001, this specialised campaign became the third nationwide Yanda ('strike hard') campaign in April 2001 which targeted three kinds of criminality: organized criminal groups (including black societies and organizations with the character of black society), violent crime (e.g. murder, aggravated assault, rape and robbery), theft, and other frequently-occurring crimes (Xie 2013). The first year of this campaign witnessed much success, and continuing operations focused police resources on the crackdown on black societies and organizations with the character

of black society as well as on the political-criminal nexus (Broadhurst 2013; Qiu 2010b; Trevaskes 2012).

On 25 March 2002, the Central Politics and Law Commission of the Communist Party of China held a national video- and tele-conference, which aimed to mobilize the masses to take part in the third national 'strike hard' campaign. From March 2002 to April 2003, the property owned by black societies/organizations with the character of black society amounting to 530 million RMB was confiscated; 646 enterprises established by black societies/organizations with the character of black society were closed; and a large number of economic entities, including 909 gambling houses, 144 trade markets, 144 construction works and 154 mines, were destroyed (He 2009a).

In 2006, the Central Politics and Law Commission of China carried out a nationwide campaign titled *dahei chu'e* (striking against organized crime and eradicating the dark forces). Between February 2006 and September 2009, a total number of 1267 black society cases were investigated, 13000 black societies/organizations with the character of black society were destroyed, with over 89,000 suspects arrested by the public security organizations. During that period, several hundred influential criminal syndicates were also destroyed, the majority of which each owned assets worth more than 100 million yuan (Qiu 2010a). Moreover, 163 public officers or staff from the criminal justice system were sentenced to prison because they were accused of offering illegal protection for these black societies (Qiu 2010b; Wang 2011).

From June to December 2010, the Ministry of Public Security launched the fourth round of the 'strike hard' campaign in order to create a safe environment for the 2010 Shanghai World Expo and the 2010 Guangzhou Asian Games (Xie 2013).

Particular attention was paid to cracking down on a list of criminal activities/organizations: serious violent crime, human smuggling and trafficking, black societies/organizations with the character of black society, prostitution, gambling, drug trafficking, telecommunications fraud, robbery, theft and crime involving firearms and explosives. The authorities launched a series of 'strike hard' campaigns and nationwide specialized drives against organized and gang crime. These campaigns worked well against unsophisticated violent crime but failed to gain control over black societies/organizations with the character of black society and their networks within the public sector (Trevaskes 2012).

Following the establishment of the 'market economy with Chinese characteristics' in 1997, China witnessed a sharp rise in the number of entrepreneurial gangs (Qiu 2010b), some of which adopted an advanced approach: acting as mediators or enforcers in the new market (Wang 2011; Zhao 2012). Using these legal fronts allows gang bosses to infiltrate China's economic system and achieve their main goal—capital accumulation. The introduction of gang-style sanctions, such as threats and violence, into the production and distribution of goods and services allows entrepreneurial gangs to obtain comparative advantages over legal competitors. As Arlacchi (1986: 89) suggests, the entrepreneurial gang 'has been (and still is) able, like any other innovatory company, to produce a profit which it monopolizes to the exclusion of other economic units'.

The Liu Yong case: Liu Yong was an influential gang leader in Shenyang's criminal underworld. Liu was also an outstanding private entrepreneur, a member of the local Committee of the Chinese People's Political Consultative Conference, a senior

member of China Zhi Gong Party (Public Interest Party), and an active member in the Poverty Alleviation Program of the city of Shenyang. As the president of Jiayang Group, Liu controlled 26 subsidiaries, 2500 employees, and fixed assets of 700 million RMB (He 2009a). Liu's incredible success was due to his ability to incorporate gang methods into his legal businesses and to establish solid connections with public officials.

Liu established his legal businesses through the use of threats and violence. In September 1995, in order to set up his supermarket in a shopping centre located in the heart of Shenyang, Liu ordered his gang members to beat up the shopping centre owner—Mr Wu—and threaten his family members. As a result, Mr Wu sublet a 470-square-meter shopping centre, which cost him 2 million RMB for decoration, to Liu Yong, gaining only 50,000 RMB in compensation. In October 1999, Liu proclaimed himself the exclusive distributor of two brands of cigarette in Shenyang (Xinhua 2003). All other cigarette distributors were then forced by Liu and his followers to leave the market. Any rejection resulted in reprisals. For example, Liu ordered a dozen gangsters to beat to death those competitors who refused to leave (He 2009a). Moreover, in the late 1990s, Liu entered the real estate business. After gaining the development rights to one commercial street in June 1999, Liu used threats and violence to demolish houses or buildings where his project was located (Lin 2003).

Many strategies were applied by Liu to establish mutually-beneficial relationships with government officials. As Chin and Godson (2006: 26) argue, criminals know 'how to exploit individual vulnerabilities by judging when money is mostly needed'. In order to enter a local committee of the Chinese People's Political Consultative

Conference, Liu established a close connection with Gao Mingxian, the party chief of the Labour Bureau in Heping District in Shenyang. Liu offered money on two types of occasions: the traditional festivals, like the Spring Festival, and one-off celebrations such as the wedding of a family member (Xinhua 2001). Membership in a people's political consultative conference offered Liu a legal front and allowed him to create extensive networks with senior public officials including Ma Xiangdong, deputy mayor of Shenyang from 1998 to 1999.

With the help of Ma Xiangdong, Liu Yong obtained the rights to develop²¹ a parcel of land valued at 350 million RMB by giving Ma a two million RMB bribe (Qiang 2004). Moreover, Liu Yong established wide connections with criminal justice officials in Shenyang using the influence of his father, who was a chief judge in Shenyang intermediate court. Many local police officers and judges became Liu Yong's protectors (Zhou 2004). For example, many police officers were involved in resolving a dispute between Liu Yong and Li Junyan, another powerful gang leader in Shenyang. Liu Yong used a gun provided by a mid-ranking police officer to shoot Li Junyan in front of three other officers, after which those officers arrested not Liu Yong but Li Junyan (He 2009a).

Liu Yong established himself not only as an influential 'dragonhead' in the criminal underworld but also as a successful businessman in three ways: creating a hierarchical organization structure, introducing gang methods to enable him to monopolize legal markets, and establishing mutually-beneficial relationships with

²¹ In the PRC, land is owned by the state. Businesses pay not for the land itself but for the right to develop the land.

government officials (Lan 2006). However, the political-criminal nexus did not help Liu Yong avoid legal punishment when his criminal activities attracted attention from the central government (Ning 2003).

On 11 July 2000, Liu Yong was detained by the Shenyang Public Security Bureau. On 22 April 2003, the Supreme Court finally sentenced Liu Yong to death and he was executed on the same day (Lu and Miethe 2007). On 10 October 2001, more than a dozen key officials were convicted for providing protection and business opportunities to Liu Yong. Among them Mu Suixin, the mayor of Shenyang, was sentenced to death with a two-year reprieve and Shenyang's vice mayor, Ma Xiangdong, was also sentenced to death (Kuhn 2001).

Since the late 1990s, when the socialist market with Chinese character was established, the Chinese state has shifted its role from the redistributor of social resources to the regulator of the economy. This gives rise to two consequences: on the one hand, party/state officials are closely associated with rent-seeking activities in order to maximize their own interests (Lu 1999); on the other hand, private firms tend to seek alternative safeguards through political connections 'in which the market is less developed and the government wields more power in allocating economic resources' (Chen et al. 2011: 240). Today, abuses of police power such as rent-seeking are also common among mid- and high-level officials (Chin and Godson 2006). Such behaviour offers favourable conditions for the development of the criminal underworld.

Gang leaders adopted various strategies to establish partnerships with local police officers to obtain business opportunities and illegal protection. This was especially

true in the late 1990s but also holds true now. The new century saw an increasing number of public officials, especially local-level police officers, engaging in illicit businesses (e.g. gambling and drug trafficking) in direct or indirect ways, transforming from extra-legal protectors to 'godfathers' in the criminal underworld (Qiu 2008). The rise of police-led organized crime groups reveals the changing objectives of corruption in China. These objectives have shifted since 1949 from pursuing official promotion to seeking a luxurious life and capital accumulation (Qiu 2008).

During the Mao period (1949-1978), political and family backgrounds were the two determining factors for the promotion of government officials (Wu 2003). Senior public officials and their family members were entitled to special treatment including housing, health care and education. The aim of corruption in that period was obtaining promotion through establishing close connections with high-ranking government officials (Qiu 2008).

From the beginning of economic reform in 1978 to the early 1990s, great breakthroughs were made in economic reform and opening up. In that period, public officials controlled most economic resources which they had the power to allocate on behalf of the government. Entrepreneurs had an objective in pursuing political connections: accessing government-controlled resources (Lu 1999). Officials who had spent most of their lives pursuing communist ideals began to seek better living standards. Since the 1990s, exchanges between power and money have become a serious social problem undermining public trust in government, and official 'wining

and dining' (*gongkuan chihe*) has become an important part of officials' life (Qiu 2008; Wu 2003).

Since the 1990s, China's economic reform and market liberalization has gained tremendous ground. As Oi and Walder (1999: 3) show, China has 'spurned ambitious privatisation programs, yet it has been one of the fastest-growing economies in the world'. The new ideology preaching 'to get rich is glorious' provides a guide not only for businesses but also for government officials. In other words, most government officials pursue predominantly economic objectives. As Qiu (2008) argues, more and more government officials achieve social superiority by dealing in power and money.

The phenomenon that corrupt government officials, especially police officers, exploit their power to provide illegal protection for organized crime groups and illicit enterprises is not uncommon in the new century. Furthermore, in order to obtain more profits, police officers engage directly in illegal businesses and abused their power to protect their own criminal activities (Qiu 2008). The transition from extra-legal protectors to gang leaders enables corrupt government officials to monopolize illegal markets and achieve capital accumulation (Wang 2013b).

The Wang Shibin case: Wang Shibin, the former deputy police chief of the Yongzhou Public Security Bureau (PSB), was appointed as the leader of a series of anti-crime campaigns in the city (L. Z. Liao 2006a). It was at that time unknown that Wang was the 'dragonhead' of four influential gangs consisting of over one hundred gangsters. Selling extra-legal protection was not the main business for Wang; instead, he achieved monopoly profits by engaging directly in illegal businesses including gambling, extortion and loan sharking. By abusing his power, Wang succeeded in

establishing himself as the most powerful gang boss in Yongzhou's criminal underworld (Xinhua 2006).

The Wang Shibin group adopted a hierarchical organizational structure, with a sophisticated division of labour. To be specific, Wang stood at the top; the second layer consisted of Mr Huang, Wang's private driver, who was the financial officer and the 'chief executive officer' for the Wang group, and four gang bosses who directly managed all Wang's illegal businesses. The lowest rank consisted of over 100 rank-and-file gang members who carried out routine tasks (Liao 2006b). Initially, four gang bosses were appointed by Wang to take charge of his gambling and loan sharking businesses. Later, Wang managed these illegal businesses by himself in order to maximize profits (Xinhua 2006). For example, Wang himself ran a 45 million RMB loan sharking business targeting gamblers (Liao 2006a). As a result, Wang was called the 'president of Yongzhou's underground bank'.

Compared with other locally-based criminal groups, which survived through the use of organized violence and the creation of the political-criminal nexus, the Wang Shibin criminal syndicate was able to flourish because of the abuse of police power. Take Wang's gambling business for example: wealthy local businessmen were frequently 'invited' to participate in gambling parties organized by Wang (Liao 2006b). Invitees who refused to attend, failed to bring enough money for gambling, or were unable to pay gambling debts, would either receive threats of or actual violence or be arrested by the police. Wang used Yongzhou's municipal detention centre to punish these 'violators'. As a result, more than thirty multimillionaires lost

their entire fortune (Qiu 2008). In June 2008, the People's High Court of Hunan province sentenced Wang Shibin to 11 years in prison (Han 2011).

6. Conclusion

This chapter provides a general understanding of organized crime by discussing three influential models: the Cressey model, the enterprise model and the network model. It also explains how the Chinese government defines 'black society' and 'organizations with the character of black society'. The distinction between organized crime and mafia suggested by Varese (2010a) is particularly emphasized in order to narrow the focus of this doctoral research. Most importantly, this chapter posits two terms—the Red Mafia and the Black Mafia—in order to distinguish two distinct types of extra-legal protectors in contemporary China.

The historical aspects of Chinese organized crime in this chapter provide a useful resource for those wishing to better understand how the cycles of Chinese organized crime have risen and fallen from the Qing dynasty until now, and explains how organized crime can be countered in the post-Mao era. The discussion of Chinese organized crime from a historical perspective suggests that organized crime in post-Mao China differs from secret societies (the Feudal Banghui) which flourished from the late Qing dynasty and the Republic of China period. As this chapter argues, the Shanghai Green Gang behaved as a quasi-government institution, providing protection not only for Green Gang members but also for all businesses in the French Concession and the International Settlement. The Shanghai Green Gang therefore can be categorized as a powerful organization similar to the Sicilian mafia.

Compared with the Shanghai Green Gang, which established close ties with the Chiang Kai-shek government and exerted a significant challenge to national security, organized crime in contemporary China appears at first sight to be a local problem. Even though the political-criminal nexus between locally-based organized crime groups and local police officers has been widely established, there is no evidence that gang bosses established mutually-beneficial links with the central government.²²

It is obvious that the resurgence of organized crime and the close link between the growth of organized crime and public sector corruption is an emerging social threat, challenging the legal status of the Chinese Communist Party. Chinese criminologists have explored various aspects of organized crime by producing a large number of research papers, books and reports each year. Chinese organized crime, however, is still a new area for international scholars. Moreover, the way in which locally-based gangs produce and sell private protection is an unexplored area for both Chinese and international scholars.

²² There is one exception: the cooperation between Hong Kong triads (primarily Sun Yee On triad society) and the central government of the People's Republic of China in the late 1990s. In order to avoid the threats posed by triad societies to the political and social stability of Hong Kong, the central government, under the leadership of Deng Xiaoping, adopted a united front tactic by playing on the triads' feelings of patriotism towards Beijing. For more information, please see: T.W. Lo, 'Beyond Social Capital: Triad Organized Crime in Hong Kong and China', *British Journal of Criminology*, 50/5 (2010a), 851-72.

Chapter III Mafia emergence: an updated economic theory of the mafia

Since the mid-nineteenth century, the word 'mafia' has frequently been adopted by social scientists to refer to powerful Sicilian families (e.g. the Cosa Nostra and the 'Ndrangheta) that embrace subculture values and share a common code of conduct (Blok 1974; Gambetta 1993; Hess 1973). Studies of the mafia during the past four decades have emphasized 'the economic dimension of the mafia and the role played by mafiosi on both the domestic and international illegal markets' (Paoli 2002: 57). The 'property rights theory of mafia emergence' suggested by Diego Gambetta in *The Sicilian Mafia* is an important tool for interpreting the relationship between state failure and the rise of mafias. Thus, Gambetta's economic theory has been gradually adopted by many scholars (Federico Varese, Yiu Kong Chu, Peter Hill, David Skarbek, and Marina Tzvetkova, among others) to characterize a kind of organized crime that engages in the business of private protection, such as the Italian American mafia, the Russian mafia, the Japanese Yakuza, and the Hong Kong triads.

The literature on mafia emergence illustrates how people rely on mafia groups to help them settle disputes, enforce contracts, and protect property rights rather than resort to public courts and state law. Three books, Gambetta's *The Sicilian Mafia* (1996) as well as Varese's *The Russian Mafia* (2001) and *Mafias on the Move* (2011a), articulate how the mafia emerges as a substitute for the state or achieves its transplantation in a new territory where the widespread creation of private property

rights is not accompanied by state enforcement mechanisms. The literature, however, has a few limitations. The 'property rights theory of mafia emergence' narrows its focus to the relationship between state failure and the rise of mafias. In other words, Gambetta's and Varese's studies into mafia emergence focus attention on mafia' domination of weak states but neglect the economic function of alternative means of enforcement that may offer property rights protection and contract enforcement. It is important to relate the mafia emergence literature to the larger literature on private ordering.

This chapter considers two theoretical frameworks: the 'property rights theory of mafia emergence', and private ordering theory. The 'private ordering' theory compares state-sponsored law enforcement with alternate enforcement mechanisms. It emphasizes that each type of private contract enforcement has unique advantages and can provide a subset of enforcement services. That is to say, the inability of the state to supply adequate or equal protection for its citizens may not be a sufficient condition for mafia emergence, since other private enforcement mechanisms can enter the market. Therefore, an updated theory of mafia emergence may be necessary in order to advance the 'property rights theory'.

The remainder of this chapter is organized as follows. It firstly explores two important issues regarding the economic theory of the mafia: one the one hand, it presents the basic features of these organizations in order to develop an in-depth understanding of what is sometimes glibly called the 'mafia'; on the other hand, it discusses the 'property rights theory of mafia emergence' which focuses on the relationship between the state and the birth of local and/or newly arrived mafias.

The alternative relationship between state failure and mafia emergence is the thread which ties together the whole theory, and the limits of Gambetta's construct are also analysed. It then discusses the growing private ordering literature. This literature explores the substantial advantages of private enforcement systems which generate efficiencies over overloaded and procedure-laden public courts. Finally, it suggests a possible route for developing a positive economic theory of the mafia by combining the two outstanding literatures: 'property rights theory' and 'private ordering'.

A through discussion of these two important literatures demonstrates that the study of Chinese mafias needs to examine two types of illegal protectors: private-illegal (the Black Mafia) and state-illegal (the Red Mafia). This chapter therefore proposes the following hypothesis: extra-legal protection mechanisms—private-illegal and/or state-illegal—can emerge and sustain a long-term existence as a result of comparative advantage over rivals including both state law enforcement and legitimate private enforcement mechanisms.

1. An economic theory of the mafia: state failure and the rise of mafias

Scholars such as Tomas Schelling and Diego Gambetta, who write on the economics of organized crime, have focused their attention on two main aspects: the commodity that is most closely associated with the mafia, and the relationship between the state and mafias. 'Protection' suggested by the economic theory of the mafia is the commodity traditionally and most closely associated with mafia groups. Regarding state failure and the rise of mafias, both the 'property rights theory of mafia emergence' and the 'property rights theory of mafia transplantation' are

discussed in order to make clear how mafias manage their core business—selling protection—both locally and abroad.

1.1. Defining feature of the mafia: ‘protection’ or ‘violence’?

Golden triangle structure, archaic codes, the obligation of silence, violence, the bonding aspect of social capital, and blood ceremonies are defining features of the mafia, which have always been widely accepted not only by ordinary people but also by most sociologists and criminologists (Paoli 2003). In recent decades, the most vehement debate on the understanding of the mafia has focused on two rival doctrines: ‘violence’ and ‘protection’. Regarding mafia emergence, much sociological analysis has focused on ‘monopoly of violence’ as the core feature of the mafia, which is analysed exclusively from the standpoint of the economics of organized crime. Leopoldo Franchetti, in *La Sicilia nel 1876*, suggests that the state’s failure to completely control the use of force in southern Italy left space for the mafia to achieve its ‘monopoly on violence’, which is the most significant feature in defining the mafia in that region (Franchetti and Sonnino 1877). This definition has been principally supported by historical sociologists and economic historians.

Argument on the hypothesis that ‘violence is a key defining feature of the mafia’ is crucially based on Max Weber’s studies on the use of violence and the role of the state. Weber argues that the state is regarded as an agency which was established through the process of the territorial monopoly of physical force (Weber 1970: 77-78). Following Weber’s historical sociology, German sociologist Norbert Elias in *The Civilizing Process* argues that the formation of the state in early modern Western Europe can be identified as a consequence of continuous warfare rather than a

result of state-building by powerful princes (Elias 2000; Tilly and Zophy 1975). Moreover, Volkov (2002b: 83) suggests that 'combined with fiscal monopoly, the monopoly of force made possible the central function of the state: the enforcement of universal law and order and the exercise of justice'.

Paoli (2003) in *Mafia Brotherhoods* demonstrates that the mafia, as one type of quasi-government institution, should be characterized as an agency that performs varying functions, and what can differentiate it from non-mafias is based on one feature: 'the ability to use violence'. As Paoli argues, it seems not only irrational but also extremely difficult to single out a single function (for instance, Gambetta's 'industry of private protection') in the definition of the mafia. She further states that:

'Far from merely "selling" protection, mafia groups and their members are actively involved in a plurality of business activities: they do not only trade in a variety of illegal commodities, but they also exploit violence and intimidation to occupy some of the spaces in the legitimate economy' (p. 174).

It is particularly difficult for the author to assess whether Paoli's argument can successfully challenge Gambetta's standpoint, as she presents her argument from a sociological point of view. Paoli characterizes Gambetta's theory as a 'functionalistic approach', by which she means 'the evolution and organization of a social phenomenon can be deduced from the functions it plays' (Paoli 2003: 143). Gambetta's emphasis on the most important function (i.e. protection) traditionally played by mafia groups in Sicily does not mean that his argument disregards the wide range of activities in which the mafia engages.

In fact, the dominant model of interpreting the mafia (raised by Gambetta and then developed by Varese) stresses the economic aspects of the use of organized violence, which has been widely accepted by international scholars as a rational way of understanding mafias in various countries (Gambetta 2011). Dependent on historical and empirical evidence, Gambetta (1996: 76) and Varese (2010) suggest that the mafia in southern Italy is defined as an industry (or 'economic governance') involving a set of firms which mainly produce and sell private protection or guarantees. Gambetta and Varese's economic theory of the mafia can be traced back to a central tenet of Nozick's thought about 'State-of-Nature Theory'.

Nozick's work provides insight into the 'protection' that Gambetta frequently talks about in his study of the Sicilian mafia. In *Anarchy, State, and Utopia*, Nozick (1974) argues that the key legitimate function of the state is the supply of protection against force, theft, fraud, and the enforcement of contracts. Self-enforcement of individual rights against an offender will inevitably lead to 'an endless series of acts of retaliation and exactions of compensation' (Nozick 1974: 11). Therefore, mutual protection associations emerge and gradually develop into groups with a precise division of labour—some entrepreneurs are organized to produce protection, and some members are hired as businessmen focusing on selling different kinds of protective services at varying prices. When the locally-dominated protective association is more effective at enforcing the rights of individuals than other enforcement, a minimalist state will inevitably emerge. As Nozick argues,

'The first transition, from a system of private protective agencies to an ultra-minimal state, will occur by an invisible-hand process in a morally permissible

way that violates no one's rights. Secondly, the transition from an ultra-minimal state to a minimal state morally must occur. It would be morally impermissible for persons to maintain the monopoly in the ultra-minimal state without providing protective services for all, even if this requires specific "redistribution" (p. 52).

The monopolization of the protection market (i.e. producing, selling, and distributing protection) through legitimised violence has been regarded as the quintessential activity of modern government. For instance, Lane (1958) maintains that 'protection' is a specific service that should be provided by violence-controlling enterprises, i.e. governments. According to Gambetta (1996), the mafia can be regarded as extra-legal government that shares an identical basis to the state. Protection, guarantees, and enforcement are the most specialised commodity that the mafia produces and sells (Gambetta 1988). Moreover, regarding the mafia as 'the industry of violence' (which has been supported by Leopoldo Franchetti and Letizia Paoli) places a one-sided emphasis on violence in the process of interpreting the mafia, because 'violence is a means, not an end; a resource, not the final product' (Gambetta, 1996: 2).

Gambetta further points out that protection offered by the mafia is a commodity rather than a public service, and what makes a person a mafioso is that 'he is capable of protecting himself against cheats and competitors' (Gambetta, 1988: 130). In this case, the mafia differs from a minimal state in two crucial aspects: first, the mafia makes no attempt to provide protection for everyone in its domain; second, the mafia appears to allow private enforcement of one's rights within its boundaries.

In 'War making and state making as organized crime', Tilly (1985) argues:

'The word "protection" sounds two contrasting tones. One is comforting, the other ominous. With one tone, "protection" calls up images of the shelter against danger provided by a powerful friend, a large insurance policy, or a sturdy roof. With the other, it evokes the racket in which a local strong man forces merchants to pay tribute in order to avoid damage—damage the strong man himself threatens to deliver' (p. 170).

In parallel with Tilly's argument, the mafia literature demonstrates that the protection generated by mafias has both positive and negative results. Schelling (1971) claims that an organized crime group is a purely predatory agency. Peter Hill shows that there is 'a tendency for mafias to engage in extortion in legitimate markets and protection in criminal ones' (Hill 2003: 20). Contrary to the viewpoints of Schelling and Hill, mafia groups often do provide genuine protection for customers not only in criminal markets but also in legitimate ones. Chu (2000) maintains that the mafia is usually invited by business entrepreneurs to deter new competitors and assist their monopolisation in the market. Varese (2010b) builds his theory on extensive evidence and concludes that mafias do provide various kinds of genuine services, as he argues:

'Mafias are able to supply genuine services like protection against extortion, protection against theft and police harassment; protection in relation to credit obtained informally and the retrieval of loans; and the settlement of a variety of social disputes. The Mafia offers protection services to entrepreneurs of illegal

commodities, such as protection for thieves, prostitutes, loan sharks and drug dealers. Mafiosi also protect their clients against law enforcement' (p. 17).

Protection offered by mafias is the kind of commodity that requires individuals to pay 'tax' in order to exercise the right to use private/criminal services. It thus brings negative consequences to those who do not want to buy. For instance, self-protected insiders have to expose themselves to harm or danger (Gambetta, 1996). From this perspective, the real service that the mafia offers, apart from 'protection', is pure extortion. Varese (2010) suggests that 'extortion and protection are a matter of perspective' (p. 18). The dual character of mafias' protection is suggested by Chu (2000) in his analysis of the penetration of Hong Kong triads into legal markets.

'The business community is not necessarily the victim of triad societies; companies that employ triads to settle their business conflicts are in fact the direct beneficiaries. The victims are those who are forced out of markets by the triads. Consumers may suffer too because they pay a higher price for relatively low-quality goods or services' (p. 123).

Like other kinds of organized crime groups, the essential goal of the mafia is maximising its profit by producing and selling protection services. The choices (e.g. extortion or protection, high or low quality of services) are made principally with an eye to the prosperity or stability of the protection business. Mafias tend to provide protection with high quality (and even at low cost) if they foresee the protection business generating long-term regular income. Otherwise, protection from mafia groups will turn to extortion in order to increase immediate profits, regardless of long-term interests. Time seems to be the most important factor that determines

the extent to which mafias will sell bogus protection (Gambetta, 1996; Chu, 2000; Varese, 2001, 2010; Hill, 2003). Therefore, there is ambiguity between protection and extortion, and it is extremely difficult to distinguish real protection from that which is bogus.

1.2. The 'property rights theory of mafia emergence'

The economics of organized crime reveal that the emergence of the mafia is directly linked to a weak state where the legal framework is confusing, the definition of property rights ambiguous, the judicial system weak, enforcement limited, and corruption rampant. Focusing on Sicily, the 'property rights theory of mafia emergence' generated by Gambetta (1996) in *the Sicilian Mafia* might be the most successful theory that explains how the mafia has emerged in transitional countries. Gambetta's argument centres on the two most significant factors traditionally and directly related to the rise of the mafia, namely, a demand for protection and a supply of the same.

Private property rights were widely established when Sicily began its transition from a feudal society to a modern society. This transition inevitably increased the number of property transactions and what followed was a huge demand for protection because private property owners exposed themselves to great danger in the atmosphere of deep distrust that pervaded Southern Italy. However, property rights could not be properly defined and efficiently protected in the absence of credible or effective systems of justice and law enforcement. In other words, the legal framework and state-sponsored institutions failed to provide sufficient protection for property rights and commercial transactions. Consequently, a private

enforcement mechanism that could fill the power vacuum was urgently needed. The mafia as a profit-motivated protection and enforcement mechanism emerged as a substitute for the state, providing private protection in a majority of market transactions.

Moreover, the conditions for mafia emergence suggested by Gambetta appear not to be unique to nineteenth-century Sicily. The existing literature illustrates that the 'property rights theory of mafia emergence' has exerted a great influence in the study of mafias around the world, for instance, that of the Hong Kong triads (Chu 2000), the Russian mafia (Varese 1994, 2001), the Japanese Yakuza (Hill 2003), mafia transplantation (Varese 2006, 2011b, 2011a), extra-legal protection in Bulgaria (Tzvetkova 2008), prison gangs (Skarbek 2011), and the Chinese mafia (Wang 2011, 2013b).

Chu (2000) demonstrates that the main business of triad societies in Hong Kong is providing real protection services in legal, illegal, and international markets. Triad members sometimes perform two roles in the market (protector and entrepreneur) at the same time, making it difficult to distinguish between the protector and the entrepreneur. Chu suggests that individual triad members usually spend the 'protection capital' in the business, in which case, triad members are professional protectors; if a triad member is involved in legal or illegal business without exploiting the reputation of his triad society, he can be simply regarded as an ordinary entrepreneur.

Following in the footsteps of Gambetta, Varese's study of the Russian mafia successfully transplants the 'property-right theory' to interpret the rise of the mafia

in another transitional country. He emphasizes that the development of property rights in Russia's economic transition from a command economy to a market economy is the key factor that prompted the birth of the Russian mafia. Similar to the Sicilian case, the economic transition brought 'a dramatic increase in the number of property owners and in transactions among individuals with property rights'; however, the Russian government failed to establish well-functioning institutions, including 'a system of clearly defined property rights, a swift and effective court system, and a credible police that deters crimes'. As a result, the Russian mafia emerged and engaged in supplying private protection for both legal and illegal markets.

The economic theory of mafia emergence has also been applied to post-feudal Japan where mafia-like organizations developed from a common starting point. Hill (2003) maintains that the *Yakuza* in Japan emerged in a significantly weakened state in which the social, legal, and economic environments had undergone tremendous change. The collapse of a bubble economy, and the inefficient formal mechanisms of enforcement and dispute resolution, created a favourable situation for the development of criminal protection associations such as Yakuza. In parallel with Hill's viewpoint, Milhaupt and West (2000) suggest that organized crime in Japan emerged in an environment where formal legal structures were inefficient, thus it became the dark side of private ordering, providing property rights enforcement and protection services (Milhaupt and West 2000b).

1.3. The ‘property rights theory of mafia transplantation’

After finishing his first book, *The Russian Mafia*, Varese (2011a) made a further breakthrough by applying the economic theory of the mafia to research into mafia transplantation. Academic studies conducted by both Peter Reuter and Diego Gambetta, two leading experts in the field of organized crime, suggest a negative viewpoint about the phenomenon of mafia transplantation. Reuter (1985) in *The Organization of Illegal Markets: An Economic Analysis* suggests that mafias are rather stationary. Gambetta (1996: 251) in *The Sicilian Mafia* maintains that ‘the mafia is a difficult industry to export’, because the mafia is always heavily dependent on a special combination of resources (e.g. information collection and advertising) that are expensive to produce in a new territory.

Drawing on the ‘property rights theory of mafia emergence’, Varese’s framework about mafia transplantation centres on a ‘supply—local conditions—demand for mafia services’ scheme (Varese 2006, 2011b, 2011a). According to Varese, these factors related to mafia transplantation can be gathered into two boxes: (a) supply, which refers to how a “supply” of criminals ends up in a new territory; (b) demand, which refers to a demand for the services that the incoming criminals are able to offer. The extent to which local conditions facilitate a demand for the services supplied by newly arrived mafia groups is explored in two works by Varese, ‘How Mafias Migrate’(2006) and *Mafias on the Move* (2011). Important local conditions, as Varese suggests, include the level of trust, the presence or absence of criminal competitors, the size of the locale, the size of the illegal market, and the type of economic system.

Two key findings of Varese's work are: (a) mafias are usually forced to leave their territory of origin by mafia wars and police repression rather than choosing to do so; (b) the inability of the state to govern markets and the absence of mafia competitors are two significant factors that link cases of successful transplantation (Varese 2011b). In other words, mafias might transplant in a sudden market expansion where the demand for protection cannot be properly regulated by the state and existing mafia competitors cannot meet demand (Varese 2011a).

In parallel with Varese's mafia transplantation, 'The mobility of criminal groups' (2011) written by Carlo Morselli and his colleagues suggests a framework regarding how criminal groups migrate or extend their powers across geographical locations. All elements in Morselli's framework can be organized into two main categories: (a) push factors, which 'refer to forces which drive criminal groups from a setting; (b) pull factors, which 'refer to forces which draw criminal groups to a setting' (C. Morselli et al. 2011: 165). In response to Morselli's framework, Campana emphasizes that two key analytical issues—the nature of the movement as well as the nature of a criminal group—should be spelled out when scholars and practitioners are using the push/pull framework (Campana 2011b).

Campana (2011a) develops Varese's ideas by suggesting the theory of 'mafia diversification'. Using an in-depth study of a Neapolitan Camorra group, Campana demonstrates that the core function of a mafia group is supplying protection and enforcement services in its territory of origin, but expansion abroad sometimes follows the lines of a functional diversification. In other words, a mafia group creates

branches in order to carry out specific activities rather than move its core business and the common fund.

To sum up, the economic theory of the mafia suggested by Gambetta and subsequently developed by Varese illustrates that the mafia functions as an 'extra-legal government' providing the state's functions in countries or regions where the law enforcement is weak, where the definition of property rights is confusing and the legal framework is imperfect. It might be argued that the 'property rights theory of mafia emergence/transplantation' is a remarkably successful theory that can be used to interpret the birth of the local mafia or newly arrived mafia in a sudden market expansion that is not properly governed by the state. Thanks to Gambetta and Varese, the property right approach of interpreting the mafia has also had much influence on the study of alternative modes of economic governance (Dixit 2004). Therefore, it provides a foundation to relate the economic theory of the mafia to the broader literature on private ordering that significantly contributes to the development of the economic theory of the mafia.

2. The private ordering literature: the emergence of private enforcement mechanisms under dysfunctional law enforcement

As Gambetta and Varese have shown, a demand for criminal protection is the most important factor in the birth and growth of mafias. As has been demonstrated, if a weak state fails to provide sufficient protection for its citizens and settle disputes among market participants in the economy, this will lead to a great demand for alternative sources of protection. Similar to Gambetta's economic theory, the central focus of the private ordering literature is to examine who is strong when the state is

weak. The private ordering literature explains the relationship between private contract enforcement and dysfunctional law enforcement. This section firstly discusses the relationship between private order and public order; it then focuses on the diversity of enforcement forms. Enforcement mechanisms can be divided into two main categories: violent and non-violent.

2.1. Relationship between Private Contract Enforcement and Dysfunctional Law Enforcement

The private ordering literature suggests that the relationship between private enforcement mechanisms and state enforcement mechanisms is both complementary and competitive. Modern government is a violence-controlling enterprise producing and selling a specific service named 'protection' (Dixit 2004; Gambetta 1993; McMillan and Woodruff 2000; F. Varese 2001; Volkov 1999, 2002b). The state plays an essential role in supporting economic activity, creating an orderly market, protecting economic transactions, and securing three essential prerequisites of market economies: 'security of property rights', 'enforcement of contracts', and 'collective action' (Dixit 2009: 5).

The existing literature also suggests the limitations of the state's law enforcement. Williamson (2005: 14) emphasizes that 'even in states that make best efforts to provide adequate protection of property rights and contract enforcement, the state's access to information and the state's protection and enforcement mechanisms are inherently limited'. Similarly, Rapaczynski (1996: 89) suggests that states must work with other protection and enforcement mechanisms because even the most 'powerful, rational, and benevolent' states cannot fully define or protect

these sophisticated forms of property and thus 'good faith cooperation among a number of parties is needed and additional enforcement mechanisms that are necessarily more flexible than any legal rules are indispensable'. Shleifer (1995) argues that not all rights can be fully protected by the courts; for instance, citizens have to protect their physical rights²³ privately rather than resort to public resources. Furthermore, as Williamson (2005: 14) states, 'property and contractual hazards invite the use of private ordering to infuse order, therefore to mitigate conflict and realize mutual gains from trade'. In this case, it seems that non-state protection and enforcement mechanisms are sometimes an essential supplement in the building of a well-functioning enforcement system.

A possible competitive relation between state enforcement and non-state enforcement does exist when certain kinds of services are available from both mechanisms. Non-state enforcement is sometimes preferable to overloaded public courts because it can produce faster, more accurate and more predictable outcomes. Private enforcement mechanisms have emerged, posing great challenges to public enforcement in circumstances where 'state law is very costly, slow, unreliable, corrupt, weak, or simply absent' (Dixit 2004: 3).

For example, people who resort to the public legal system have to wait a long time to resolve disputes. The legal system finds it difficult to enforce judgements. Therefore, it sometimes may not be economical for a merchant to employ public law and state courts to enforce a contract that 'involves small dollar amounts and is time

²³ Compared with a legal right that is protected by police and the court, the protection of physical rights cannot resort to legal resources. This is because many physical control rights are not legal.

sensitive' (Richman, 2004: 2343). Inefficient state courts and rampant corruption of the judicial system may at times make alternative enforcement (e.g. the mafia) a more appealing choice to resolve these kinds of civil and economic disputes. In such cases, non-state enforcement becomes a strong competitor to state legal enforcement in the protection market.

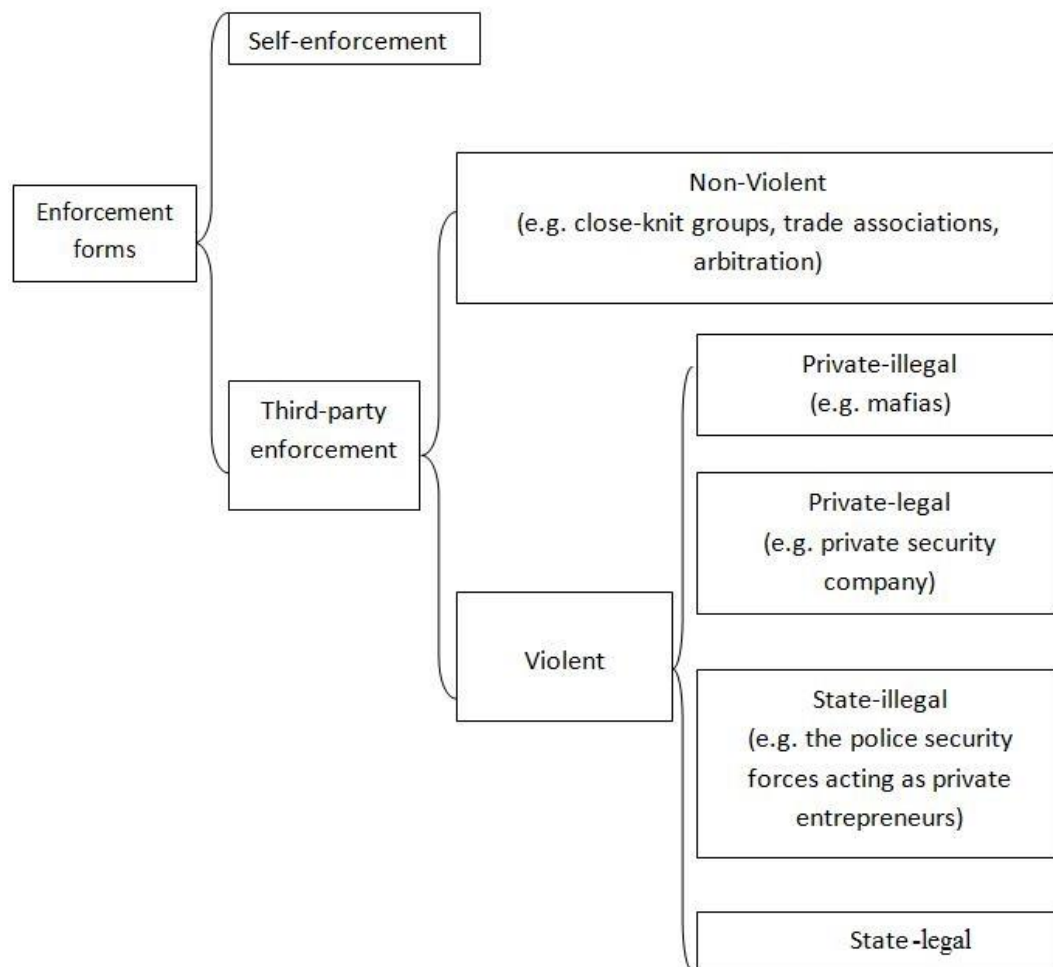
The failure of the state in providing sufficient/efficient protection and enforcement results in the emergence of various kinds of private enforcement mechanisms in the market. Shleifer (1995) maintains that organizations who are interested in efficient structures can emerge as an alternative approach to the state enforcement mechanisms if the state is unable or unwilling to protect rights and enforce contracts effectively. Moreover, Dixit (2004) emphasizes that the consequence of private ordering is foreseeable when state law is costly compared with other enforcement forms:

'Societies will attempt to evolve other institutions (for instance, self-protection or hired professional protection for property rights, networks of information transmission, and social norms and punishment for contract enforcement), albeit imperfect ones, to underpin their economic activity when state law is missing or unusable' (p. 3-4).

Building on the argument provided by Barzel (2002), Dixit (2004), and Williamson (2005), third-party enforcement can be categorized into two main aspects: non-violent and violent. Physical power is not a necessary resource for producing protection and enforcement, because enforcers can make use of long-term relationships between the enforcer and the principals (Barzel 2002). For instance, a

council of elders governs the tribe by using the enforcement power that has been created by their outstanding reputation in dealing with disputes. However, the use of violence for enforcement has advantages over non-violent enforcement that is based on long-term relationship: it is often cheaper, and it can be more efficient through exposing direct cost (e.g. the threat of physical punishment, incarceration, and seizure of property); but violent means of enforcement are most effective in dealing with disputes that happen in the enforcer's jurisdiction (Barzel 2002).

Figure 1 Diversity of enforcement forms



2.2. Non-violent means of enforcement

In certain circumstances, enforcers who build their power on the use of social mores, ideology or long-term relationships are more efficient than those who use violent means of enforcement. Private enforcement systems have the capability to employ tools that are unavailable to public courts to compel merchants to satisfy all conditions laid down in an agreement (Richman 2004). Trade partners from a specific industry tend to form themselves into a trade association in order to strengthen their collaboration. Trade associations, resting on reputation, are sometimes non-

profit organizations governed by private order (named bylaw) and directed by one member from the same association.

The community of Ultra-Orthodox Jews is one classic example used to suggest that private enforcement may be more effective than public courts. Three predominant characteristics of diamonds (i.e. portability, concealability, and precious value) make diamond transactions high risk, therefore a private mechanism which can efficiently deter theft and induce credit payment has emerged spontaneously (Richman 2005). New York's diamond industry is chiefly governed by the rules of the Ultra-Orthodox Jews: 'cheating on contractual obligations leads to exclusion from community religious practices, and flight from the community—the primary penalty in breached diamond credit sales—cuts off all possible religious participation' (Richman 2004: 2345). Therefore, non-violent means of enforcement, including ostracism from future transactions and the threat of non-economic sanctions, may be sufficient to ensure business transaction security.

Arbitration is also frequently used to analyse the strength and weakness of the private ordering system when it is compared with public ordering. Arbitration is a legal technique which is frequently employed in the resolution of commercial disputes and employment contracts, including very large transnational ones. Arbitrators are industry insiders who are well equipped to serve as effective fact-finders, make judgements specific to individual disputes, and impose appropriately punishing behaviour (Richman, 2004, 2005). The private arbitration system, as Richman (2004) argues, is able to act more swiftly and cheaply because arbitrators 'enjoy both a familiarity with the industry and specially tailored procedural rules

designed with a greater emphasis on speed than those that govern public courts' (p. 2342).

2.3. Violent means of enforcement

Violent means of enforcement are used in both legal and illegal markets to supply support or services for reasons that may be ideological or in order to maximize profits. As a profit-oriented protector in the legal market, the private protection company is an important form of private legal enforcement. Post-communist Russia has undergone the legalization of the protection business since the Law on Private Protection and Detective Activity was adopted by the Russian Federation in March 1992, which created a vast private security industry (including private protection companies, private security services and private detective agencies) that compensates for inefficient law enforcement during the imperfect market transition (Volkov 2002a). These private security firms provide services including private security, contract enforcement, dispute settlement and debt recovery. They also offer legal advice, information collection and organizational consulting (Volkov 1999).

The privatisation of the security industry and the growth of private protection companies have an unintended anti-mafia effect in that the increasing demand for security could be met by private security companies. However, the deficiencies of this kind of enforcement are obvious. As Varese (2004) argues, the scope of their services is constrained by the law, which means that these firms cannot engage in the provision of illegal protection or services, such as driving potential or current competitors out of the market and settling disputes outside the law. Nor can citizens or small business operators easily afford such an expensive service.

Mafias, as a dark side of private ordering, provide a commodity (which Varese identifies as 'protection' rather than 'extortion') for individuals and merchants in both legitimate and illicit markets, which is an issue that has been thoroughly discussed in the 'property rights theory' literature. Corrupt police officers and security forces provide another violent substitute for inefficient law enforcement, because individuals or entrepreneurs in both legal and illegal markets can easily get access to the commodity (protection) by corrupt means or simply by purchasing it. Volkov (2002) regards 'units of state police and security forces who are acting as private entrepreneurs' as 'the state and illegal enforcement'. It seems rational to argue that state-illegal enforcement is a kind of private enforcement, because the activities of corrupt state police are individual behaviours rather than collective actions authorized by government.

In an illegal market, the image of a 'protective umbrella' suggested by Chin and Godson means government officials, especially police officers, take bribes (e.g. money, expensive gifts, sex, and promotion) and in return provide protection for the criminals and their illegal activities (Chin and Godson 2006). Services provided by corrupt police officers include two main activities: protecting the criminals' business and protecting the criminals from law enforcement authorities. Depending on their skills in the unlawful use of organized force, corrupt public officials in a legitimate market may resemble organized crime groups in providing various functions for market participants, including dispute settlement, contract enforcement, transaction insurance, risk control and private security. As Varese (2004: 149) argues, 'criminal protectors offer protection services beyond the limits set by the law, and some

policemen compete directly with criminals and double as racketeers or private protectors unconstrained by the law’.

To sum up, the growing private ordering literature suggests that various kinds of enforcement mechanisms serve as substantial substitutes for building a well-functioning enforcement system. It is important to emphasize that contracts would need to be enforced by non-state enforcement mechanisms only in two sets of circumstances: where the legal system does not provide certain kinds of contractual assurance, and where public contract enforcement exists but may not be cost-effective. Drawing on the private ordering literature, it can be argued that the economic theory of mafia emergence is not a perfect one and limitations do exist. The theory developed by Gambetta and Varese fails to give sufficient attention to the competitive relationship between the mafia and other private protection and enforcement mechanisms.

Moreover, the private ordering literature suggests that the study of extra-legal protection in mainland China needs to incorporate two types of illegal protectors: the Black Mafia (private-illegal) and the Red Mafia (state-illegal). Gambetta’s and Varese’s research does not take the state and illegal enforcement into consideration, as this type of enforcement does not exist or exerts a limited influence on the market. China, however, is different. The existence of absolute power and the absence of efficient monitoring provide favourable conditions for the rise of the Red Mafia—corrupt government officials involved in the provision of unlawful protection.

3. An updated economic theory of the mafia: ‘supply—market competition—demand for extra-legal protection’

The mafia literature is essential to the study of the relationship between state failure and the rise of the mafia, but it does not draw much attention to other forms of enforcement which can also fulfil the protection deficit created by a weak state or replace mafias as private protection suppliers. The private ordering literature focuses on different systems of private enforcement that can arise in two cases. First, private enforcement serves as a major supplement providing services for individuals and merchants where state-provided contract enforcement is unavailable. Second, private enforcement arises where state-sponsored enforcement is available but where private contract enforcement enjoys comparative advantages in the supply of protection.

The private ordering literature does not, however, explicitly discuss the reasons why the extra-legal protection mechanism emerges rather than other forms of private ordering. Drawing on the mafia literature and the literature on private ordering, this chapter revises the ‘property rights theory of mafia emergence’ (Gambetta, 1996; Varese, 2001) by adding the new concept of ‘market competition’ that can address how people make choices among four distinct types of enforcement mechanisms—state enforcement, private-legal enforcement (e.g. private protection companies, arbitration, trade association), private-illegal enforcement (e.g. mafia groups), and state-illegal enforcement (e.g. corrupt police officers). This updated theoretical framework benefits from the private ordering theory (Richman, 2005), which

compares the efficiencies and costs of private contract enforcement with traditional state law and public courts.

Figure 2: The Choice among Enforcement Forms in a Free-Market Economy (drawing on Gambetta, 1993; Varese, 1994: 229; Richman, 2004)

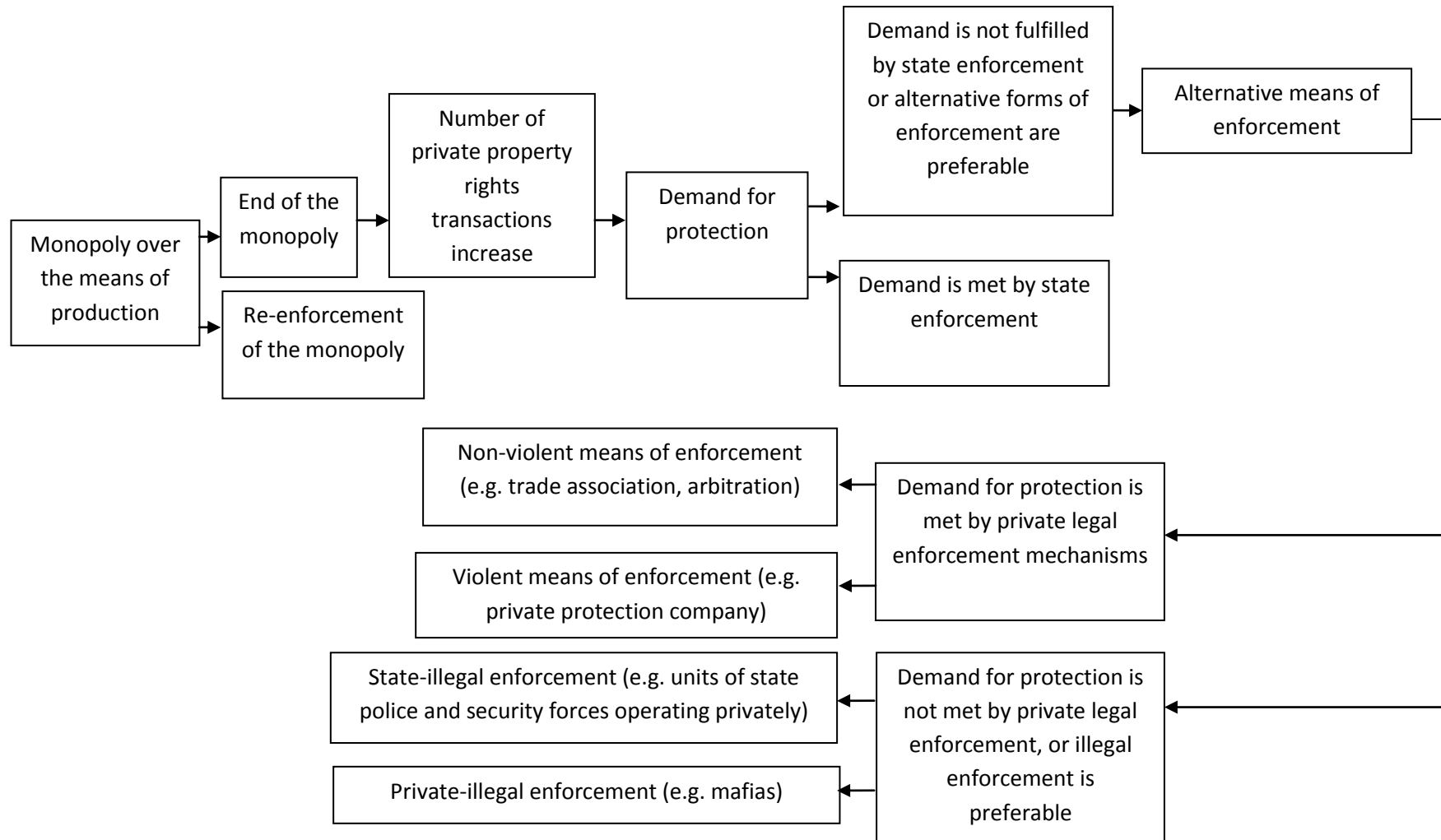


Figure 2 suggests a new economic theory of the mafia by combining both the 'property rights theory' and the theory of 'market competition'. It illustrates the conditions that create the demand for alternative sources of protection and how people or merchants make their choice among different systems of enforcement in a free market economy. At the beginning, the direct outcome of the transition from a feudal society to a modern society is that the government or the monarch loses the monopoly over the means of production. As a result, private property rights become widely established and the number of market transactions increases dramatically.

What follows is the increasing demand for protection that is used to secure citizens' economic and individual rights, protect commercial transactions and foster a competitive market. The monopoly of the growing protection market is not inherent in the system of state law enforcement, especially in a country where public law enforcement and state courts are inefficient. Each enforcement mechanism has its own strengths and weakness, and the parties in either civil or criminal disputes also have different needs. Therefore, the demand for a certain kind of enforcement or protection is a result of rational choice. Citizens or merchants choose an enforcement mechanism according to their perception of cost-effectiveness.

In order to provide a clear explanation of the 'supply—market competition—demand for extra-legal protection' framework, the following paragraphs offer an in-depth analysis of three main aspects of the updated framework.

- (1) *Supply*: The growing numbers of mafiosi or criminals who are better at providing violence than their protectees can be divided into two groups: local and newly-arrived (Gambetta 1993; Varese 2011a). Explaining the emergence

of local mafias in Russia, Varese suggests that a large number of newly-unemployed people, including ex-soldiers, prison inmates, bandits and individuals who enjoy advantages in the use of violence, provide a pool of potential suppliers (Varese 2004). On the other hand, newly-arrived mafia groups who leave their territory of origin can become significant suppliers of private protection for local customers in a new territory (Morselli et al. 2011; Varese 2006, 2011a).

In the case of mainland China, the Hong Kong triads are widely regarded as the newly-arrived mafia and are thought to play an important role in the private protection market. There is no doubt that triad societies have established themselves as visible actors in China's criminal underworld (Lo 2010). Since 2011, two influential theories—transplantation and mainlandisation—have been used to explain the emerging phenomenon of triad societies in mainland China. 'Transplantation', suggested by Varese (2006: 414), means 'the ability of a mafia group to offer criminal protection over a sustained period of time outside its region of origin and routine operation'. According to Varese, the Hong Kong triads fail to transplant to mainland China for two major reasons: first, locally-based criminal syndicates which have established corrupt networks with government officials control the criminal underworld; second, corrupt fragments of the state apparatus, especially police officers, have become powerful extra-legal protectors (Varese 2011a).

'Triad mainlandisation', suggested by Wing Lo and Sharon Kwok, refers to:

‘The process of making Hong Kong triad societies more reliant on mainland China for financial gain through social networking with Chinese officials, enterprises and criminal syndicates and taking advantage of legitimate and illegitimate business opportunities resulting from China’s economic growth and rising demand for goods and services’ (Lo and Kwok 2012: 83).

Lo and Kwok argue that the Hong Kong triads are able to survive in a changing socioeconomic environment by collaborating with their mainland Chinese counterparts in win-win situations rather than by transplanting or competing with locally-based syndicates which are protected by government officials. This also demonstrates that triad societies fail to develop into a main protection supplier on the mainland.

Moreover, the existing literature demonstrates that government officials, especially police officers, are actively engaging in the supply of illegal protection for illicit profits (Chin and Godson 2006; Qiu 2008). In China, the state and illegal enforcers (i.e. Red Mafia) might be the most significant unlawful protectors. In this case, the research into extra-legal protection needs to emphasize the role played by corrupt state police and security forces.

Figure 3. The supply of extra-legal protectors

Main types	<p>(a) Large number of unemployed people who enjoy violent activities in local markets</p> <p>(b) Newly-arrived mafia groups</p> <p>(c) State-illegal enforcement</p>
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(2) *Demand for alternative sources of protection*: Past research has tended to regard the demand for private enforcement as the outcome of weak law enforcement. The ‘property rights theory of mafia emergence’ posits a causal relationship between dysfunctional law enforcement and an increasing demand for alternative sources of protection (Y.K. Chu 2000; Gambetta 1993; Hill 2003; Tzvetkova 2008; F. Varese 2001; P. Wang 2011). The less trust people place in state law enforcement, the greater their demand for private protection services will be (Coleman 1994; Gambetta 2000b). Other contributing factors, for instance, newly-formed market economies and large-scale illegal markets are also conducive to the birth of private protection agencies (Varese 2011b, 2011a).

Figure 4. The demand for alternative sources of protection

Contributing factors	<p>(a) Low level of trust</p> <p>(b) Newly-formed market economy</p> <p>(c) Dysfunctional law enforcement</p> <p>(d) Large illegal market</p>
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(3) *Demand for extra-legal protection through market competition*: The ‘property rights theory of mafia emergence’ suggests that increasing demand for private protection is one fundamental contributing factor for the rise and transplantation of mafias. But it does not explain why it is mafias that arise rather than some other forms of non-state protection. This chapter explores why the service provided by a certain kind of enforcement mechanism is preferable to that offered by other systems of enforcement. The extra-legal

protection mechanism (either private-illegal or state-illegal) will emerge only when goods sold by extra-legal protectors enjoy comparative advantages in a competitive market. Five factors which could determine people's choice are thoroughly discussed in the following.

Figure 5. The demand for extra-legal protection through market competition

Determining factors	<ul style="list-style-type: none"> (a) Cost-effectiveness (b) Range of services (c) Availability of information (d) Ability to enforce sanctions (e) Accessibility of services
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(a) *Cost-effectiveness*. Cost-effectiveness analysis, which compares the relative costs and outcomes of two or more forms of protection and enforcement mechanism, is the most significant issue when people choose between various forms of enforcement. One type of enforcement mechanism can be widely used in ordinary business activities only if individuals believe that the benefits from the use of this enforcement mechanism exceed the cost. When the cost is greater than the sum of income, the commodity provided by enforcement organizations has transformed from 'protection' to 'extortion' (Gambetta, 1996; Varese, 2001). Private protection companies, state-illegal enforcers and mafias are private entrepreneurs who intend to maximise profits through a contract priced by mutual agreement between enforcer and enforced. Enforcers tend to supply services with higher quality and lower price for their customers if a stable relationship has been established (Varese,

2001; Chu, 2000). Some enforcers may supply services with a competitive price in order to gain market share.

Efficiency of enforcement is to what extent an enforcer can produce an effect. Individuals or merchants adopt different strategies of enforcement to pursue efficiency and predictability in business relations (Hendley et al. 2001). Enforcers who possess specialized knowledge offer solutions tailored to individual disputes. An enforcement system which has the capability to act more swiftly with lower costs tends to succeed (Richman, 2005). As already seen, citizens sometimes reject help from law enforcement agencies because the process is exceptionally onerous and time-consuming.

(b) *Range of services*. Each type of enforcement mechanism specializes in supplying a particular subset of enforcement services (Dixit 2004). The nature of disputes can determine the choice of enforcement mechanism. For example, not all disputes can be settled by police and the courts because the legal system may be unavailable at a time when physical rights are violated (Shleifer 1995). Private protection companies are independent agencies providing a range of services which are authorized by the government (Varese 2004). As this thesis will argue, both the Red Mafia and the Black Mafia in mainland China also specialise in the provision of private protection.

(c) *Availability of information*. Information collection is a basic skill enforcers use to establish their reputation in the protection market. By becoming a customer of enforcers, a new trader can gain reliable information about previous cheating by trading partners, and information about the reliability of

the newcomer is spread through the community of traders in order to minimize the risk of being cheated. Ability to collect information can reduce the costs of monitoring and increase the speed of detecting violations (Gambetta 2000b). The other role of enforcement mechanisms is coordination, which is also based on information provision. Unfortunately, providing reliable information to customers about the cheating of trading partners is not always sufficient to prevent bad traders from cheating others. Therefore, enforcers should actively 'coordinate their members' responses to breaches of agreement and prevent free riding' (McMillan and Woodruff 2000: 24).

(d) *Ability to enforce sanctions.* Imposing timely sanctions when a trader fails to fulfil a contract will increase the reputation of the enforcer, and several levels of sanction are available. Sometimes just the threat of punishment is enough to deter free-riding and cheating (Gambetta 2009), but often it is not enough. Enforcers resort to physical violence. For example, by using violence, mafias in legitimate markets are not only able to monitor compliance in cartel agreements, but can also effectively deter conspirators from cheating (Gambetta and Reuter 2000). Violence tends to be more effective than non-violence, but the significance of non-violent means of enforcement cannot be dismissed completely. As Richman (2004) suggests, the threat of non-violent sanctions in merchant communities, such as the erosion of reputation, prohibition from future transactions and exclusion from community religious practices, are sometimes sufficient to induce compliance.

(e) *Accessibility of services*. As Barzel (2002) suggests, violent means of enforcement are only available within the enforcer's jurisdiction. Mafia groups cannot advertise their services openly, because large-scale advertising will invite more police attention (Varese 2010b). Mafia groups therefore tend to provide services only for customers they are familiar with, which is a barrier to their further expansion.

This chapter suggests an updated theory—the 'market competition theory of mafia emergence'—which centres on the 'supply—market competition—demand for extra-legal protection' framework. It argues that extra-legal protection mechanisms (private-illegal and/or state-illegal) emerge as private enforcement in a state where the rule of law and state-sponsored institutions are weak and where alternative enforcement agencies do not possess competitive advantage over extra-legal protectors. In other words, unlawful protectors can establish their reputation in the provision of protection services if their services have relative advantages in the fields mentioned above.

The 'supply—market competition—demand for extra-legal protection' model problematizes the economic theory of the mafia and suggests that, under different circumstances, another form of enforcement might develop as people attempt to resolve their disputes through the most cost-effective means.

4. Applying the updated theory to interpret the rise of extra-legal protection in China

The economic theory of the mafia suggested by Gambetta and Varese centres on a 'supply—demand for mafia services' scheme, which suggests that the emergence of

mafias is directly linked to a weak state where the legal framework is confusing, the definition of property rights ambiguous, the judicial system weak, enforcement limited, and corruption rampant. The private ordering literature suggests various forms of enforcement mechanism can generate efficiencies over overloaded and procedure-laden public courts. Moreover, it points out that the study of extra-legal protection should not be limited to the mafia (private-illegal), because state-illegal enforcement should also be considered.

Building on the two theoretical frameworks, a modified theory suggests that the inability of the state to supply protection for its citizens and settle commercial disputes may not inevitably result in the rise of extra-legal protectors. It suggests that extra-legal protection mechanisms will arise where state-sponsored protection enforcement is weak or absent, and private legal contract enforcers lose their competitive advantage over illegal protectors.

The modified theory suggests that the demand for extra-legal protection is a result of the competitive advantage of unlawful protectors. Economic reform and market liberalization in China have achieved great success in the past 30 years, which inevitably attracts intense international attention. It is worth examining whether China's great transformation is accompanied by the creation of a well-established legal framework and its accompanying public and private-legal enforcement. Based on the 'market competition theory of mafia emergence', the author proposes the following ***hypothesis***:

The rise of the extra-legal protection mechanism is the result of market competition. That is to say, Red Mafia (state-illegal) and/or Black Mafia (private-

illegal) will emerge where the increasing demand for protection cannot be suitably fulfilled by state enforcement and where alternative enforcement agencies which make up the 'protection deficit' created by state failure are less efficient than extra-legal protectors.

Since 1978, economic reform and privatisation in China have ended the state monopoly over the production and distribution of goods. The reforms also established private property rights, and private property owners expect their rights to be protected. Meanwhile, the growing illegal markets (e.g. gambling, prostitution and drug dealing) exponentially enlarge the demand for criminal protection. This thesis proposes that Chinese people have to rely on alternative enforcement mechanisms when state protection is insufficient. Figure 6 illustrates the basic features of the four main types of protection mechanism in mainland China, and attempts to predict their efficiency.

Figure 6. Four types of third-party enforcement and their basic features in China (Gambetta 1993; Hendley et al. 2001; Richman 2004)

Strategy	Examples	Enforcement methods	Reliance on outsiders	Reliance on reputation	Use of law	Efficiency of enforcement (<i>Prediction</i>)
State enforcement	The framework of law and judicial systems	State authorities: police, prosecutors and judges	Significant-state	Low	High	Low
Private-legal enforcement: (1) violent means and (2) non-violent means	Violent means: private security companies. Non-violent means: trade associations and arbitration	Violent means: threat and/or use of violence in limited ways, and threat of legal action. Non-violent means: erosion of reputation, prohibition from future transactions, and exclusion from community religious practice	High-not state	High	High	Low
Private-illegal enforcement	Black Mafia	Threats and/or use of organized violence	High-not state	High	No	High, but offers limited scope of services
State-illegal enforcement	Red Mafia	Threats and/or unlawful use of state violence	High-not state	High	No	High

Drawing on the hypothesis mentioned above, the following chapters would present a methodological approach, and use fieldwork data to test the ‘market competition theory’ in the Chinese context. The efficiency of the Chinese legal system would be examined, after which special attention would be paid to various types of alternative protection mechanism, identifying the comparative and competitive advantage of each type of mechanism.

Chapter IV Methodology, data collection and new hypotheses

This project is an empirical study of extra-legal protection in mainland China since the economic reforms which began in the late 1970s. It examines the conditions under which extra-legal protection mechanisms (private-illegal and/or state-illegal) emerge. According to the 'market-competition theory of mafia emergence' suggested in chapter three, the main focus of this thesis is the method people in China use to resolve disputes, including state-sponsored law enforcement, state-illegal enforcement, private-legal enforcement and private-illegal enforcement. It will follow a causal logic and employ qualitative methods, drawing on documentary and archival materials as well as interview data.

This chapter firstly discusses the choice of methodology strategy and demonstrates why the case study approach is a preferred method. Secondly, it explains how this thesis uses a case study design, describes research sites, shows how the author dealt with the methodological problems that were encountered in the fieldwork, and illustrates the process of data analysis. Attention then turns to testing the hypothesis generated in chapter III, which argues that the rise of extra-legal protection mechanisms (Black Mafia and/or Red Mafia) in China is the result of market competition. In contrast, fieldwork data suggests that economic behaviour of individuals (e.g. the choice of preferred enforcement mechanism) is embedded in social relations (i.e. guanxi networks). The divergence of interview data from the

original proposition encourages the author to propose alternative hypotheses by emphasizing the role of social relations in the emergence of extra-legal protection mechanisms.

1. The choice of methodology

Social-legal research uses several basic methodologies, including archival analyses, ethnographies, interviews and surveys. Each research strategy represents different ways of collecting, presenting and analysing empirical data. Each enjoys some advantages and disadvantages when compared with other strategies (Creswell 2009; Yin 2009). According to Yin (2009), three conditions finally determine the choice of strategy:

‘(a) the type of research question posed, (b) the extent of control an investigator has over actual behavioural events, and (c) the degree of focus on contemporary as opposed to historical events’ (p. 5)

Archival analysis is the preferred strategy for organizing older documents (Behrman and Davey 2001). The existing literature on dispute resolution in contemporary mainland China mainly focuses on the role of the judicial system in supplying private property protection and settling civil disputes. But literature relating to private forms of protection and enforcement, especially the extra-legal means of dispute resolution, is scanty. The scarcity of accessible extant documents encourages researchers to apply a diversity of approaches and techniques.

Experimental or quasi-experimental studies can produce greater certainty than other strategies, but they are difficult to implement, as an investigator must be able to

manipulate all the remaining variables directly, precisely, and systematically (Boruch and Foley 2000; Montgomery 2009; Yin 2009). Experimental studies afford maximum control over behavioural events that cannot be duplicated in real life, leading to the need to find other ways to address common situations in which randomized field trials are used.

Where a question is innovative, where the agents cannot be controlled, and where written records do not exist or only partially cover a topic, then ethnographies or interview methods are called for. Ethnography draws attention on the fact that 'the ethnographer immerses him- or herself in a group for an extended period of time, observing behaviour, listening to what is said in conversations both between others and with the fieldworker and asking questions' (Bryman and Teevan 2004: 402). Ethnographers gather data through interviews and the collection of existing documents in the course of their research, which is regarded as something separate from participant observation (Bryman and Teevan 2004; Taylor 1993). However, ethnographic fieldwork is inherently longitudinal in character because the observer usually spends a relatively long time, for example, two or three years, conducting participant observation in a social setting. Time constraints require the author to adopt interview methods.

Investigators who aim to conduct a standard survey interview or structured interview need to have a full understanding of the research topic. Interviewers using the standard survey interview suffer greater risk of contaminating their respondents' answers (Bryman and Teevan 2004; Oakley 1981, 1998). Bryman (2008: 463) suggests that the interviewer-interviewee relationship in a structured interview is a

form of hierarchical or power relationship as ‘interviewers arrogate to themselves the right to ask questions, implicitly placing their interviewees in a position of subservience or inferiority’. The standard survey interview or structured interview is inconsistent with data collection in mainland China as the author lacked a thorough understanding of extra-legal protection in China before the start of the fieldwork.

Qualitative interviewing, including unstructured interview and semi-structured interview, is a powerful tool in socio-legal research. It enables interviewers to gain access to their participants’ expert knowledge on how people in mainland China settle their disputes and why they rely on extra-legal protectors. Qualitative interviewing is a reciprocal process, so interviewees might contribute information which seemed irrelevant before the interview but turns to be important. For instance, qualitative research, as Bryman (2008) suggests, frequently entails ‘the reconstruction of events by asking interviewees to think back over how a certain series of events unfolded in relation to a current situation’ (p. 466). The disadvantage of qualitative interviewing is that interviewers’ characteristics (e.g. age, race, and gender) may cause bias and response variance (Hox et al. 1991). In this case, interviewers who prefer to adopt qualitative interviewing methods are required to have training in both face to face and telephone interviewing so as to reduce the ‘interviewer effect’. In addition, the time-consuming nature of unstructured interviews suggests that the semi-structured interview combined with archival analysis is the preferable data collection technique for this study.

Histories and case studies, both of which can use multiple sources of data—primarily archival data and interview data—are preferred research strategies that are

frequently used to conduct exploratory and explanatory studies, for example, dealing with 'what', 'how' and 'why' questions (Yin 2009). This doctoral thesis is an empirical study of extra-legal means of dispute resolution in mainland China, which aims to explore what is extra-legal protection in China, why extra-legal protection and enforcement mechanisms emerge, and how people in China mobilize various resources to respond to the increasing number of civil disputes in a socialist market economy. Histories and/or case studies were therefore approaches worth considering.

Histories are the preferred strategy when dealing with the 'dead' past. They are conducted by utilizing primary and secondary sources, and cultural and physical artefacts (Hobbs 2000). For instance, studies concerned with the emergence of the Sicilian mafia are mainly based on archival research with interviews and conversations (Albini 1971; Blok 1974; Hess 1973). But the use of archival research with interviews is insufficient for this thesis as extra-legal protection is a previously unexplored area of research.

The case study is the best research method for this project. As Robert K. Yin emphasized, the unique strength of the case study is that researchers can make use of a full variety of evidence. Case study enables in-depth analysis of complex configurations of factors in a finite setting. In other words, large areas of overlap between case studies and histories do exist, but two sources of evidence, including 'direct observation of the events being studied' and 'interviews with the persons involved in the events' (an oral history might be an exception), are only available for the case study (Yin 2009: 8). In order to offer a clear picture of how scholars use case

study, this chapter firstly looks at the most recent and influential publications in criminology which rely on its use.

2. Appropriate use of the case study method

Bowling's study of *Policing the Caribbean* (2010) is a classic example of the case study. Drawing on over 160 interviews (80 tape-recorded interviews and the same number of unrecorded interviews) as well as observing and interacting with chief police officers, customs officials and coastguards, as well as immigration, security, military, and government officials, *Policing the Caribbean* examines the emergence of policing practices that extend beyond the boundaries of the nation state in responding to drug trafficking and organized crime—a threat to the national security of the Caribbean as well as other parts of the world (Bowling 2010). An embedded case study is used in Bowling's research: first, the general case of transnational policing, which includes 'cooperation among Caribbean countries, and between them (individually and collectively) and Britain and North America'; second, specific cases, which include cooperation among law enforcement and security organizations in the local, national, and transnational spheres (Bowling 2010: 19). An embedded case study makes it possible for the author to use various sources of evidence, such as documents analysis, intensive interviews and observation.

In *Where there is no government: enforcing property rights in common law Africa*, Joireman (2011) argues that privately-ordered institutions—customary leaders, bureaucratic entrepreneurs, nongovernmental organizations, and specialists in violence—persist in providing competing enforcement mechanisms for property rights in three common law countries (i.e. Uganda, Kenya and Ghana) where property rights are ill-defined and state law enforcement mechanisms fail to protect

individuals' property. This book is a brilliant example of case study, using multiple sources of evidence—primarily document analysis, survey, and interviews—to describe and interpret the phenomenon of non-governmental mechanisms for property rights enforcement in common law Africa. Joireman chose these countries because their governments were willing to devote law-making effort and scarce resources to strengthening the role of the state in property rights protection and enforcement (Joireman 2011).

Varese's work on mafia movement offers a representative case study in the field of organized crime research (Varese 2006, 2011a, 2012b). In order to ascertain which factors make it possible for mafia groups to successfully conquer new territories, Varese (2011a) in *Mafias on the move* examines numerous cases in which long-established mafia groups in different countries (or areas) transplanted themselves to new territories. The comparison of negative and positive cases of mafia transplantation enables Varese to specify the conditions that can lead to successful transplantation.

The criteria for selection—cases where there was transplantation or indication that it was ever attempted—help Varese exclude irrelevant cases. Many intervening variables are considered by Varese in order to establish the conditions that can generate demand for services offered by newly-arrived mafias. Local conditions which facilitate mafia transplantation include advanced market economies or newly booming markets, the level of interpersonal trust and civil engagement, presence of local illegal protectors, as well as the level of corruption (Varese 2011a). Analysing both failed and successful cases of transplantation, Varese explains in detail how

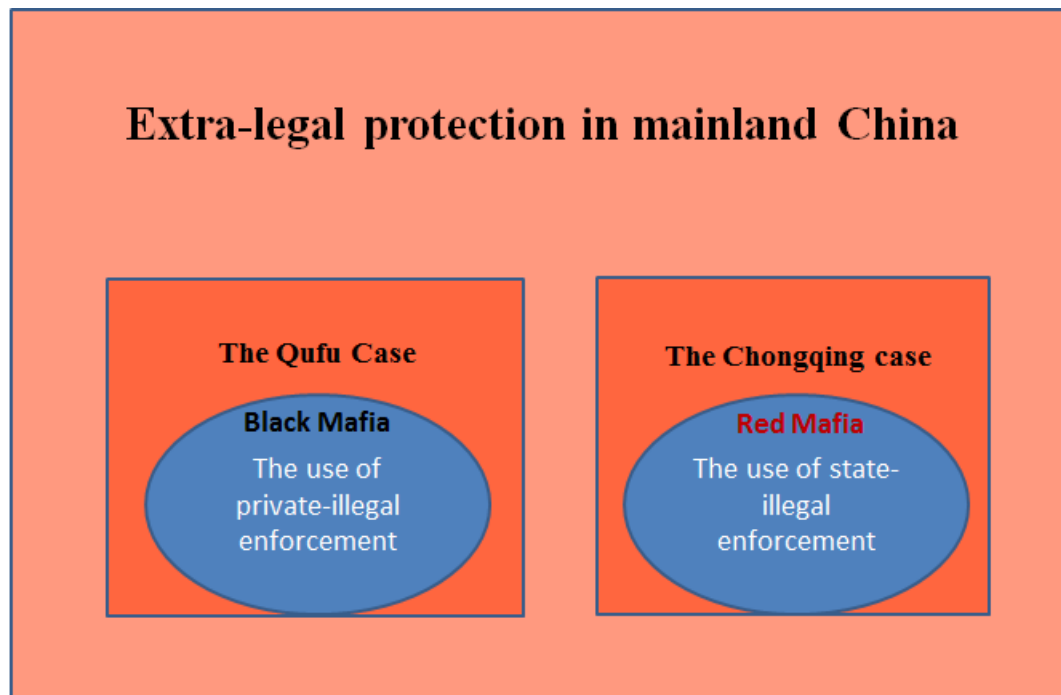
transplantation works and why it sometimes fails, and successfully establishes an influential theory of mafia movement—the ‘property rights theory of mafia transplantation’.

Based on both quantitative and qualitative evidence, the importance of case study as a research method should be emphasized as it can ‘accommodate a variety of methods with respect to the logic of design, data collection techniques, and specific approaches to data analyses’ (Yin 2009: 14). Bowling (2010: 18) further suggests that ‘this method uses multiple sources of evidence—but primarily document analysis, interviews, and observation—to describe and explain a social phenomenon in its real-life context’. The following paragraphs discuss the use of case study as a way of exploring the rise of extra-legal protectors in contemporary China.

3. Research design

In order to have an in-depth understanding of how extra-legal protectors achieve competitive advantage in China, this research adopts a case study design. According to Yin (2009), the unique strength of the case study is its use of multiple sources of evidence, such as document analysis, interviews and observation. In contrast with single-case designs, the evidence from multiple-case designs, as Yin argues, ‘is often considered more compelling, and the overall study is therefore regarded as being more robust’ (p. 46). This study uses an ‘embedded case study’ design. It consists of two distinct units of analysis: (1) extra-legal means of dispute resolution in the Chinese cities of Qufu and Chongqing; (2) specific cases: the use of the Black Mafia (private-illegal) by the local business community in Qufu and the Red Mafia (state-illegal) in Chongqing.

Table 2: An embedded multiple case design



3.1. Research sites

The technical restrictions for both Chinese and Western scholars who attempt to do fieldwork in China are obvious: China is a vast territory that consists of 34 provinces, autonomous regions or municipalities with great variations in economic situation, landscape and climate. China also has a vast melting-pot of different nationalities with extremely diverse cultural traditions (Shen et al. 2010). Furthermore, financial costs and time constraints make empirical research in all regions of mainland China extremely difficult.

All data for this study were collected from two cities: Qufu and Chongqing. Qufu is a small city and the hometown of the author. The author's family members have established a social network, facilitating access to local businessmen, the police archive and local court files. The data collected from Qufu is used to explore why and how individuals and entrepreneurs resolve their troubles by using the extra-legal

protection and quasi law enforcement offered by street gangs. The main obstacle in Qufu is also obvious: evidence about government officials' involvement in selling illegal protection is extremely difficult to access as there is little archive material, and in-depth interviews would pose significant risks.

But Chongqing is different, because it seems easier to gain access to open sources about how the Red Mafia functions. Chongqing is one of the biggest cities in southwest China with a population of more than 30 million. The Chongqing government under the leadership of Bo Xilai²⁴ achieved great success in its anti-mafia and anti-corruption campaign. From June 2009 to November 2011, 77 government officials, including over 20 senior police officers, were arrested for their involvement in corrupt networks and the supply of extra-legal protection to locally-based crime groups (Jacobs 2009; Telegraph 2009; Xinhua 2011). The Chongqing case illustrates both the existence of corrupt police officers who sell protection to locally-based criminals and the emergence of corrupt guanxi networks within the criminal justice system. High-ranking officials distribute government appointments within guanxi networks and shelter corrupt transactions between mid- and low-ranking officials and illegal entrepreneurs or criminals (Wang 2013b).

²⁴ Bo Xilai was a member of the Central Politburo and the Communist Party chief in Chongqing from 2007 to 2012. He was removed from power in March 2012, accused of abusing power, taking bribes and violating party discipline. For more information, please see: BBC 'Bo Xilai: China Parliament Expels Disgraced Politician', (updated 26 October 2012) <<http://www.bbc.co.uk/news/world-asia-china-20091588>>, accessed 13 March 2013.

3.1.1. The city of Qufu

Table 3: Location of Qufu (from Google Maps)



Qufu is a county-level city located in southwest Shandong province. Official documents show that Qufu covers 896 sq km, and has a population of 650,000 (Zhou 2004). It is the hometown of Confucius, a Chinese thinker, educator and social philosopher of the Spring and Autumn Period (771 – 476 BC) (Hall and Ames 1987). Several famous tourist attractions, including the Three Memorial Edifices of Confucius (Three Kong 三孔)—the Temple of Confucius (孔庙), Confucius Mansion (孔府) and Confucius Forests (孔林)—and The Temple of Yan Hui (颜庙), occupy a large section of downtown Qufu (Zhou 2004).

The tourism industry has always been the mainstay of the local economy; for example, Qufu can raise 165 million RMB each year from Three Kong's ticket sales. Government documents reveal that the average per capita income of Qufu residents in the year 2010 was 14,011 RMB (\$2,116), representing a 9.1% year-on-year growth.

The annual per capita consumption of Qufu residents in the same year averaged 9,973.2 RMB (\$1,506), up 19.5% on 2009 (Miao 2011).

Qufu Economic Development Zone (EDZ) was set up in 1995 and advanced to provincial level EDZ in 2005. Qufu EDZ is divided into two main parts: Western Zone and Eastern Zone. By the end of 2010, the total number of enterprises in the two zones grew to 300. On 30 June 2011, the Shanghai-Beijing High-Speed Railway opened, which has contributed to the development of the local economy as Qufu East station is one of 24 stations on the line (Foster 2011).

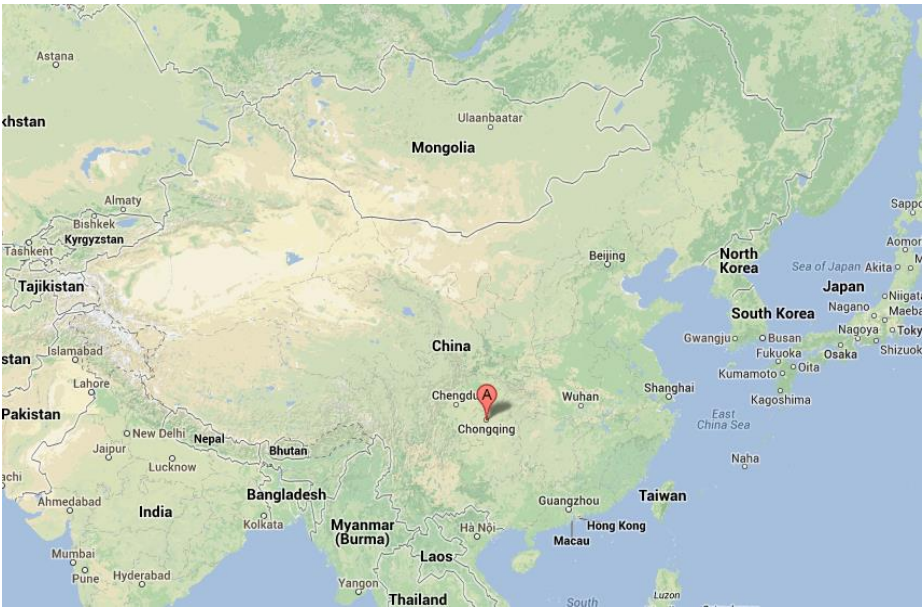
Since 2009, the 'Socialist New Rural Construction Programme' has been implemented in Shandong province (Utopia 2010). This project aims to establish new rural communities by dismantling farmhouses and merging several villages into one giant alliance village that usually consists of over 10,000 people. Most local construction companies in Qufu have taken part in this programme. Over 50 construction enterprises employ a total of 16,100 employees in Qufu. In 2010, the output value of the construction sector was 1.727 billion RMB, up 35.1% year-on-year. The four biggest construction companies dominated the construction market with a 39% market share (Liu 2011a).

The booming construction industry is associated with the rise of various types of dispute. Street gangsters have become visible mediators or enforcers frequently invited by private enterprises and local authorities to deal with disputes that are deemed risky. For example, gang leaders are invited by real estate developers and local authorities to deal with the problem of 'nail households'—residents who refuse to relocate.

Since 2007, an underground banking industry has flourished in Qufu. Although there are no official documents or published materials concerning this social problem, informal communication with the local business community suggests that these underground bank managers normally recruit professional enforcers or locally-based criminals to collect debt. The study of Qufu’s underground banking system will provide valuable material about how enforcement mechanisms work in the criminal underworld.

3.1.2. The city of Chongqing

Table 4: Location of Chongqing (from Google Maps)



Chongqing is one of the four province-level municipalities in People’s Republic of China, with a population over 30 million as of 2012. It is divided into 40 county-level subdivisions. Since 1997, when it was separated from Sichuan province, Chongqing has become an important industrial area in Western China (Xinhua 2008). Jon Sigurdson and Krystyna Palonka (2008) state that massive financial support from the

Chinese Central Government has successfully transformed Chongqing into the largest economic, trade and financial centre in Western China, and 'its industrial output (179 billion RMB) value ranked 11th among the 35 biggest city economies in China in 2000, though it ranked behind the top ten most industrialized coastal cities, all of which had attracted much greater foreign investment during the reform era' (p. 2). Benefiting from China's western development strategy, Chongqing experienced tremendous economic growth in the past decade. In 2012, Chongqing's total GDP grew to 1146 billion RMB (US\$181 billion) with GDP per capita of 39,083 RMB (\$6,191). The average per capita income of Chongqing residents in the same year was 22,968 RMB (\$3,638) (Xinhua 2013).

Chongqing's rapid economic growth was, however, accompanied by the rise of locally-based crime groups and rampant corruption in the public sector. The crackdown on crime and corruption that followed, under the leadership of Bo Xilai, achieved extraordinary success. The Chongqing crime crackdown was directed not only at criminal groups but also at powerful officials who safeguarded locally-based criminals and illegal entrepreneurs, which is a marked departure from other anti-mafia campaigns that only focused on combating gangsters (Branigan 2009; Economist 2009; J. FlorCruz 2009). From October 2009 to July 2010, thousands of suspects were questioned, 1544 suspects were arrested, including 19 suspected crime bosses, hundreds of criminal gangs, and over 20 corrupt police officers, including at least six district police chiefs and the city's deputy police chief—Wen Qiang (BBC 2009).

Chongqing's anti-Mafia campaign helped Bo earn national recognition. It made the public realize how the Red Mafia had emerged and how dysfunctional local government had become. However, the fall of Bo Xilai can be regarded as the biggest political scandal of 2012. His fall also gave rise to negative criticism of the Chongqing approach—'singing red' ('changhong') and 'striking black' ('dahei') (FlorCruz 2012; Lafraniere et al. 2012). This thesis does not, however, incorporate Bo's fall in its analysis, for two reasons: on the one hand, the Bo Xilai incident is the result of political struggle, and the lack of reliable data makes it very difficult to monitor trends and offer useful conclusions; on the other hand, Bo's fall does not influence the author's understanding of the rise of the Red Mafia—corrupt government officials who derive their major income from the provision of unlawful protection.

4. Challenges in data collection

Fieldwork was conducted in two Chinese cities (Qufu and Chongqing) from December 2011 to early March 2012. Interpersonal relationship (*guanxi*) turned out to be the most important resource for the author in the entire research process, including getting research access, obtaining oral informed consent, and collecting reliable information.

Benefiting from his family members' *guanxi* network, the author obtained easy access to interviewees in Qufu. Data collection there involved 22 in-depth semi-structured interviews with police officers, local government officials, entrepreneurs, private (illegal) bankers, lawyers and judges, as well as eight focus group discussions with a total of 23 interviewees including project managers from local construction companies, staff in local hospitals, and government officials. Entrepreneurs and

private bankers' experiences, in particular, provided valuable sources of data on the performance of local law enforcement agencies, the rise of debt collection gangs, and the importance of social relations (*guanxi*) for private enterprises.

During the fieldwork in Chongqing, political factors emerged as a major obstacle in gaining access to interviewees. With the help of Li Ren, an associate professor at Southwest University of Political Science and Law in Chongqing, the author drafted a list of potential interviewees in advance. In order to improve the quality of interviews, the author contacted potential subjects via telephone, email or instant messaging in order to make appointments before travelling to Chongqing, but all potential participants rejected the author's invitation because they were afraid to be involved in discussing this sensitive political issue. As interviewees explained, 'according to the Chongqing government, government officials, academics, and even journalists are not allowed to make any criticism of Chongqing's anti-mafia campaign'(Journalist B 2011; Journalist C 2011).

The author arrived in Chongqing and started empirical work in December 2011. In the first couple of days, potential interviewees refused to accept any interviews concerning Chongqing's strike black campaign because they suspected the author might be a plainclothes police officer from the Ministry of Public Security. Moreover, the author failed to gain access to any police reports or court files because officials from the criminal justice system did not trust any researchers from overseas institutions at all. However, with the help of Li Ren and Xu Pengxiang (a prosecutor in Chongqing), the author managed to conduct one focus group discussion with four

prosecutors and one police officer as well as nine semi-structured interviews with journalists, academics, prosecutors, taxi drivers, and a lawyer.

It was not practical to provide an information sheet before each interview because all interviewees felt cautious and were reluctant to offer consent even orally after they read the information sheets. The difficulty of requiring participants to sign an informed consent form in China is also emphasized by the existing literature (Cornet 2010; B. Liang and Lu 2006). Unlike western countries, there are no laws or regulations or a legal culture that can efficiently protect privileged information. Moreover, a confidentiality agreement or a mere promise of confidentiality may bring trouble for a researcher as it may lead participants to question the legitimacy of the research (Heimer and Thøgersen 2006).

Instead of offering interviewees an information sheet, the author explained the research orally (including aims of the research, principal research questions, and interviewees' right of withdrawal). 'Can I ask some questions?', which was an informal way of expressing 'can I interview you?', was frequently used when the author attempted to obtain consent from potential interviewees. This is because the term 'interview' is such a formal word in Chinese, placing even more pressure on the potential interviewees. Most interviewees allowed the author or his assistant (Jingyi Wang) to take notes during interviews, but a recorder was strictly prohibited.

In order to acquire more data on Chongqing's anti-mafia and anti-corruption campaign, the author applied several strategies. First, a close teacher-student relationship enabled the author to conduct interviews with two criminology professors in Shanghai, Qiu Geping and Jin Qigao, who specialize in research on

Chinese organized crime and corruption. The comments from both professors provided valuable insights into Chongqing's corrupt networks. The interviews were followed by frequent email communications with these two professors, which included thorough discussions on the emerging extra-legal protection market and corrupt guanxi networks in contemporary China.

The author was invited by one criminology journal in China, *Issues on Juvenile Crime and Delinquency*, to organize a special discussion concerning extra-legal protection and mafia theories. Two leading criminologists, Diego Gambetta and Federico Varese, offered papers on the origin and development of mafia theories (Gambetta 2013; Varese 2013a). In response, two top legal scholars, He Bingsong and Qiu Geping, provided papers criticizing Gambetta's and Varese's papers and offering their own understanding of extra-legal protection in mainland China (He 2012; Qiu 2012). The author also submitted a paper about how to apply mafia theories to mainland China, which received a large amount of criticism from Chinese academics (Wang 2013c). Debates among Chinese and EU scholars enabled the author to obtain an in-depth understanding of mafia theories as well as Chinese-style extra-legal protection.

The second strategy was to use open source data from China and foreign countries. The Chinese CNKI database provided the author with access to a large number of journal papers, news reports, conference papers, and doctoral theses about the Chongqing crime crackdown. These open materials offered rich details, but their limitation was obvious: almost all these publications lacked evidence of independent thinking due to strict media control in China. The author therefore turned to the viewpoints of Western media. In order to ensure the reliability of the information

from Western media, the author mainly focused on mainstream news reports or comments, such as those in *The Times*, *BBC*, *The Economist*, *The Telegraph*, *The Guardian*, *The New York Times*, and *CNN*. In particular, this research draws on a series of news articles written by notable journalists, such as Jaime FlorCruz and Malcolm Moore, who have lived and worked in China for many years.

Third, after the removal of Bo Xilai as party chief of Chongqing in March 2012, the author attempted to gain access to police archives and court files. Similar to the first request during the fieldwork in Chongqing, government officials refused to offer any materials. The request for access to police records was also denied, which forced the author to adopt an alternative strategy: the acquisition of government records through private channels. A review of existing literature helped identify one law professor in Chongqing who had published a number of high-quality papers about Chongqing's crime crackdown. A close relationship with the Chongqing government may be what allowed this professor to obtain police and court files. Li Ren employed his social networks to gain access to this law professor, but the professor refused to provide the data he possessed and even his email address. This indicates that Chongqing's anti-mafia campaign is still a politically sensitive topic.

Overall, the author carried out a total of 33 individual interviews, nine focus group discussions with a total of 28 participants, an extensive review of published materials and, most significantly, a number of email communications. In order to ensure coding reliability, all data were coded by the author. The coding process worked as follows: first, a series of valuable news articles and journal papers about China's criminal protection were added to complement the fieldwork data. Second, the

author read through the materials in printed form and coded manually. Third, the data were arranged on a coding tree with three branches: 'the Chongqing case (corrupt guanxi network)', 'quasi police organization', and 'the use of mafia services and guanxi by private enterprises'. Third, the author went back into the documents and coded them using NVivo.

The analysis of interview data suggests that the choice of private-illegal and/or state-illegal enforcement mechanisms is not purely determined by market rules. During the author's fieldwork, the term guanxi was frequently and spontaneously mentioned by most interviewees. Guanxi was described by interviewees as an important mechanism employed by individuals to protect rights and facilitate transactions. Moreover, guanxi facilitates corrupt transactions and provides a secret channel for the buying and selling of extra-legal services offered by both the Red Mafia and Black Mafia. The new findings and viewpoints from fieldwork prompt the author to test the hypothesis generated in chapter III and propose new hypotheses by emphasizing the significance of social relations (guanxi) into the discussions of state weakness and the rise of extra-legal protectors.

5. Social embeddedness: Questioning the 'market competition theory of mafia emergence'

According to the 'market competition theory of mafia emergence' suggested in chapter III, the extra-legal protection mechanism (either private-illegal or state-illegal) will emerge where the increasing demand for protection cannot be suitably fulfilled by state enforcement (i.e. public law and state courts) and where alternative enforcement agencies which make up the 'protection deficit' created by state failure

are less efficient than extra-legal protectors. This market competition theory emphasizes substitutive and complementary relationships between state and market in the provision of protection, and argues that a certain type of protection and enforcement mechanism will emerge if it achieves a sustainable competitive advantage over the competing products and services offered by other mechanisms.

This market competition theory assumes a perfectly competitive market of private protection and its accompanying rationalizing behaviour by the actors in such a market. A perfect market (or perfect competition) is defined by several characteristics, including sufficient information, zero entry and exit barriers, intelligent buyers and suppliers, zero transaction costs (Arrow 1959; Robinson 1934). Market participants are always fully informed, perfectly logical, and able to deduce their optimum choice, no matter how complex their situation is (Simon 1955). The explanation of individual behaviour in purely rational terms is problematic because 'actual action is influenced by irrational factors' (Weber 1978: 22). As Fligstein (1993: 11) argues:

'[Actors] are assumed to construct rationales for their behavior on the basis of how they view the world. Their goals and strategies result from those views and are not the product of an abstract rationality'.

Classical and neoclassical economics assume perfect individual rationality and focus on how people make choices (Becker 1976), while new economic sociologists argue that 'economic action is embedded in structures of social relation, in modern industrial society' (Granovetter 1985: 481). Economic action can be regarded as a subordinate and a special case of social action which is

constrained by on-going social relations (Avgerou and Li 2013; Granovetter 1992; Weber 1978). 'Embeddedness', as Granovetter (1992: 25) argues, refers to 'the fact that economic action and outcomes, like all social action and outcomes, are affected by actors' dyadic (pairwise) relations and by the structure of the overall network of relationships'.

In parallel with Granovetter's argument on embeddedness, fieldwork data from two Chinese cities (Chongqing and Qufu) suggest that economic behaviour of individuals (e.g. the choice of preferred enforcement mechanism) is embedded in a particular social structural context—guanxi network—rather than dictated by purely economic considerations. Confronted with various choices (e.g. both legal and illegal enforcement mechanisms), economic actors often 'lack adequate information, have difficulties in predicting consequences of decisions and therefore lack confidence in making strategic decisions' (Lee et al. 2001: 55). Under such circumstances, the ways in which Chinese people seek protection and enforcement services tend to rely on interpersonal relationships. To be specific, people tend to rely on the information passed through guanxi networks as they are efficient and reliable (Luo 2000). Exchange behaviour in networks of interpersonal relationships emphasizes reciprocity, which means to return good for good as well as ill for ill (Chen and Chen 2004b). The reciprocal exchange largely discourages opportunistic behaviour including misrepresentation, manipulation, lying, cheating, and deception (Anderson 1988; John 1984; Williamson 1975).

The buying and selling of private protection requires a mechanism to deal with these opportunistic behaviours. This is fundamentally important in illicit markets of private protection which are characterized by high uncertainty about both the price of these illegal transactions and their results. The exchange of private protection services is embedded in the existing guanxi networks. Reciprocity, trust and reputation within guanxi networks will reduce illegal transaction costs, guarantee quality of service, and punish violators.

China is characterized by the coexistence of two systems of order: the formal legal system and guanxi (Potter 2002). The influence of guanxi is not limited to business transactions. An overview of guanxi literature and the analysis of fieldwork data suggest that law enforcement and judicial activities are also embedded in guanxi networks. This thesis will argue that the embeddedness of police and judicial activities in social relations make China's legal system ineffective, unequal, and corrupt. Fieldwork data suggests that the 'market competition theory of mafia emergence' is useless, which encourages the author to incorporate guanxi—Chinese style social relations—into Gambetta's classical argument on state failure (or weakness) and the rise of mafias. This line of thinking gives rise to a list of hypotheses:

Hypothesis 1: the coexistence of guanxi and the formal legal system or the embeddedness of police and judicial activities in guanxi networks means that state-sponsored law enforcement agencies are unable to provide equal and sufficient protection for private property owners.

Hypothesis 2: *guanxi networks facilitate corrupt transactions within and between public and private sectors, resulting in collective corruption within political establishments and the rise of state-illegal protectors (i.e. the Red Mafia).*

Hypothesis 3: *corruption and inequality within law enforcement agencies—the key features of state weakness—prompts private property owners to seek alternative sources of protection (e.g. the Black Mafia).*

Hypothesis 4: *the buying and selling of black mafia services is dictated by the trust and reputation within the guanxi network.*

Drawing on existing literature and fieldwork data, the following chapters will test these hypotheses. *Chapter V* is a theoretical analysis of the coexistence of the formal legal system and guanxi. It describes the gradual establishment of the rule of law, discusses the changing significance of guanxi before and after economic reform, and most importantly examines the effect of guanxi on legal institutions. Empirical data from Chongqing are used in *Chapter VI* to examine the corruption-facilitating role of guanxi. It emphasizes the importance of guanxi in the creation of illegal job markets (the buying and selling of public appointments) and the emergence of corrupt networks between law enforcers and locally-based criminals. The Chongqing case provides valuable insights into the Red Mafia's structure, the way in which it functions, and major services it provides. Based on interview data from Qufu, *Chapter VII* examines the rise of the Black Mafia—street gangs specializing in the provision of extra-legal protection and quasi law enforcement—and stresses the importance of guanxi in the buying and selling of private protection. The analysis of

Chinese mafias (both red and black) criticizes the absolutization of the market, and demonstrates that Granovetter's theory on the embeddedness of social action—including police and judiciary activities as well as the exchange of private protection—can complement Gambetta's economic theory that builds on the supply and demand model.

Chapter V Coexistence of the legal system and guanxi in contemporary China

The guanxi network operating as a governance mechanism is an important aspect of daily life as it can widely affect company performance and individual behaviour (Gu et al. 2008). Within the emerging literature on guanxi, two issues are emphasized by China scholars: the historical and cultural roots of guanxi, and the shifting patterns of guanxi practice (Chen and Chen 2004a; Gold et al. 2002b; Guthrie 1998; Lovett et al. 1999; Luo 2000; Yang 2002). Much empirical research highlights the enduring significance of guanxi in Chinese society where business behaviour revolves around personal relationships (guanxi) and China's legal system is heavily influenced by guanxi. This demonstrates that people's behaviour is not only influenced by economic considerations and legal institutions, but also circumscribed by their guanxi networks (Michelson 2007; Redding 1993; Zhan 2012).

Meanwhile, many of the world's foremost legal scholars and social scientists have explored China's judicial reform, discussed the growth of law and legality, criticised China's global road to judicial independence, and identified the challenge of rule of law reforms (Orts 2001; Peerenboom 2009; Potter 1999; Woo and Gallagher 2011). Drawing on the existing research on the legal institutions as well as the guanxi network, a series of scholars have conducted extensive research on the co-existence of and interactions between these two most influential systems (Li 2003; Schramm

and Taube 2003a; Xin and Pearce 1996). However, there is no existing literature examining whether the co-existence of both systems can sufficiently support economic activities and fully meet the current demand for protection.

China's economic reform is associated with the revival of private property and the establishment of a socialist market economy. This, however, has not been accompanied by the creation of an effective legal system that assures truth, justice, rectitude, efficiency and effectiveness (Gong 2004; Li 2012). Under such circumstances, Chinese people tend to use *guanxi*—a Chinese form of social network—to make up for the lack of the rule of law and transparency in rules and regulations' (Dunfee and Warren 2001: 197; Zhang et al. 2009: 492). Most China scholars stress the positive side of *guanxi* by discussing the substitutive and complementary relationships between the *guanxi* network and the legal system (Luo 2000; Peng 2003; Xin and Pearce 1996). But the existing literature neglects the negative influence of *guanxi* practice on China's legal system. The Chinese government, as this chapter will argue, lacks the ability to solve the problem of corruption that is embedded in the *guanxi* network.

The first hypothesis predicts that the embeddedness of judicial and police activities into *guanxi* networks undermines China's newly-formed legal system. The aim of this chapter is to examine the extent, nature and impact of the coexistence of both systems (*guanxi* and law) on Chinese society. Consistent with the first hypothesis, a thorough review of the existing literature in this chapter will argue that the coexistence of the legal system and the *guanxi* network does not necessarily result in

a positive outcome. In other words, guanxi in contemporary China damages the performance of the legal system (Gu et al. 2008).

The structure of this chapter is as follows: section 2 describes how private property rights are created, and discusses the process of recognising private property and constructing the legal system in China. Section 3 focuses on the definition issues of guanxi, and analyses the changing roles of the guanxi network since economic reform began. Section 4 develops a framework for studying the institutional interactions between guanxi and the formal legal system. It adopts an institutional approach to assess the ability of their coexistence to protect property rights, enforce contractual or relational agreements, secure business transactions, and resolve disputes. The concluding section emphasizes that guanxi in contemporary China has transformed from a complementary institution to an informal institution that both destroys the formal legal system and contributes to the rise of extra-legal protectors.

1. The reassignment of property rights and the establishment of China's formal legal system in the economic reform era

In contrast to Eastern Europe and the former Soviet Union, which followed the 'shock therapy/big bang' path, China's economic transition from a centrally planned to a market-oriented system adopted a gradual approach and has achieved spectacular growth since 1978 (Holz 2008; Lin et al. 1996; McMillan and Naughton 1992; Naughton 1996). Economic growth and the construction of a market economy require the state to establish an institutional framework offering stable and predictable property rights and contracts, and provide effective mechanisms for addressing disputes and conflicts (Clarke et al. 2006; Nee 2000; Xu 2009c). In order

to understand how China's reform has been carried out, this section centres on three aspects: the wide creation of private property rights, the recognition of private property rights and the growing importance of China's legal institutions.

1.1. Reform as a reassignment of property rights²⁵

From the Qin Dynasty (221-206 BC) to the last Emperor in 1911, China was a country where people recognised the supreme authority of the emperor. The emperor had absolute power to determine people's way of life, rights and obligations. Imperial power could easily reach every corner of the country (Zhang 2008c). After the establishment of the new China in 1949, Mao Zedong, the founding leader of the People's Republic of China, adopted Soviet-style socialism and regarded Marxism-Leninism as the ruling ideology of the country (Lifton and Mao 1969). 'Public ownership' in Chairman Mao's theory was the core element of socialism, and 'private ownership' was characterised as 'evil' (Xu 2009c; Zhang 2008c). At the beginning of the country's first five-year plan in 1953, the government stepped into the period of transition from capitalism to socialism, and accomplished the socialist transformation of agriculture, handicrafts, and capitalist industry and commerce in late 1956 (Mao et al. 1992). As a result, private property was completely abolished by the Communist Party, and private enterprise almost completely disappeared (Qin and Zhou 2008).

²⁵ Walder and Oi also used this as the subtitle in their co-authored book chapter. Please see: Walder, A. G. and Oi, J. C. (1999), 'Property rights in the Chinese Economy: contours of the process of change', in Andrew G. Walder and Jean C. Oi (eds), *Property Rights and Economic Reform in China* (Stanford University Press).

After the death of Mao in 1976, Deng Xiaoping and his followers organized a nationwide discussion called 'Practice as the Sole Criterion for Testing the Truth' to question Mao's socialist theory, re-evaluate Mao and his legacy, and help the victims of the Cultural Revolution (1966-1976) regain their power (Lee 1991; Zhang 2008c). The Third Plenum of the Eleventh Chinese Communist Party Congress held in 1978 marked the Party's shift from 'class struggle' (against capitalism and the bourgeoisie) to 'economic development', signalling the beginning of the reform era (Qian 2000). One significant change brought by the economic reform was the end of the single-public-ownership structure of the country (Zhang 2008c). In contrast to other post-socialist countries, China's economic reform is characterised by extensive reassignments of property rights without wholesale privatisation. As Walder and Oi (1999) argue:

Reform in China has proceeded through the gradual reassignment of specific property rights from higher government agencies to lower government agencies, or from government agencies to enterprises, managers, families, or individuals. This has occurred gradually, and different ownership forms have held sway in different parts of the economy at different times (p. 6-7).

According to Smyth (1998) and Xu (2009c), a 'revival' of private property has been associated with China's economic reforms in three ownership sectors since 1978: (1) the agriculture reforms; (2) reforms in the non-state sector; (3) reforms in the state sector. These three reforms are described briefly in the following paragraphs.

Agricultural reform

Huang (1998) divides China's agricultural revolution into three stages: land reform in the 1950s, the establishment of the household responsibility system in the early 1980s, and market reforms in the early 1990s. After the collectivisation of agriculture in 1956 and the establishment of People's Communes in 1958, the daily activities of China's agriculture were organized under the production team system for about 20 years (Lin 1988; Schultz and Yi 1999). The production team was the basic agricultural collective unit for production and distribution. The production team system also adopted a work point system, which was used to assess the quality and quantity of work done and 'collective income at the end of the year was determined by the number of work points accumulated plus the value of each work point' (Perkins 1988: 605). The political working point system infringed on 'the right of peasants either to sell or otherwise utilise their own labour' (Smyth 1998: 237). Moreover, in order to subsidise industrial development, the Unified Purchase and Marketing System (UPMS) monopolised grain purchases and marketing and forced farmers to sell agricultural products to the state at low prices (Smith 1998). In addition, the majority of peasants were forced to work for various public construction projects, such as dam construction, without payment (Smyth 1998).

The major change was the introduction of the 'household responsibility system', which was officially allowed to exist in poor areas in the fall of 1979 and was almost fully adopted in 1983-1984 (Huang 1998). The implementation of the new system has been recognised as the first successful reform in China, which necessarily put peasants in a better socio-economic position. Under the responsibility system,

households were entitled 'partial' property rights. It means the government gave households the right to use and the right to appropriate the surplus from the land, while not recognising the right to transfer the land (Qian 2000; Yang et al. 1992). This gave rise to two major consequences. Firstly, it became increasingly difficult for the UPMS to exercise monopoly power over grain purchasing and marketing, as farmers were less likely to accept prices that were less than the marginal cost of production (Huang 1998). Secondly, a set of agricultural reforms, starting in 1978, not only dramatically increased the food supply, but also produced a large surplus labour supply. Meanwhile, an unequal pace of economic development between rural and urban areas motivated people to migrate for a better life. These two factors gave rise to the emergence of the floating population in China (Liu 2011b; Seeborg et al. 2000).

The third stage was agricultural market liberalisation. Under the household responsibility system, the household was assigned to pay a fixed tax to the government. After fulfilling the obligation, the household was free 'to produce and sell whatever it considered profitable, and to retain any profit' (Qian 2002: 18). Huang (1998) argues that 99% of counties had adopted price liberalisation by the end of 1993, but the increase in the price of grain after 1994 led to a pull-back from market reform. Thus the third revolution was not complete in the 1990s. Since 2000, in order to ease the financial burden on peasants and avoid the political costs of collecting off-budgetary revenue, the central government 'took bolder steps to prohibit illegal land seizure and abolished all surcharges in 2001 and agricultural taxes in 2006' (Liu 2012b: 318).

Reforms in the non-state sector

Ito (2006: 168) suggests that Township-Village Enterprises (TVEs or *xiangzhen qiye*) can be categorised into two broad aspects: 'collectively owned enterprises (COEs) run by township or village governments' and 'non-public enterprises established by farmers solely or jointly after the Open Door Policy in 1978'. Guo (1999a) argues that 'each level of government administration has a specified category of *xiangzhen qiye*'. Based on Ito and Guo's arguments, COEs can be further divided into three major types: county-run COEs, township-run COEs, and village-run COEs.

The non-state sector has increased in importance since China began its economic reform in 1978, and the collective sector became the dominant part of the non-state sector and of the local economy in the late 1980s and 1990s (Smyth 1998). For instance, private enterprises contributed around 15% of national industrial output in 1993, while collectively owned enterprises contributed 42% of national industrial output in the same year (Qian 2002).

The contribution of COEs to national gross industry output reached a turning point in 1997. At that time, both the central government and the local government raised their concerns about the future economic health and long-term sustainability of China's township enterprises (Li and Rozelle 2003). As Ito (2006) and Sun (2002) suggest, three major factors drove the process of privatisation in the non-state sector. Firstly, in order to reduce growing fiscal burdens, the community government was reluctant to use government resources 'to cross-subsidize its COEs and to guarantee more loans for them', thus the bad performers were the first to be privatised (Sun 2002: 257). Secondly, the nationwide introduction of the

Shareholding Cooperative System (SCS) in the late 1980s resulted in dispersed COE property rights, which was regarded as the beginning of a privatisation initiative. Finally, the tax structure was significantly changed when the central government started its Tax Sharing System (TSS) in 1994, which 'posed new challenges to local cadres because collective assets became liable to state-controlled taxation' (Into 2006: 172).

Moreover, due to the lack of restraints from county government, the increasing number of community-run TVEs significantly facilitated excessive government rent-seeking and corruption (Sun 2002). In order to deal with these problems, since the mid-1990s, rural China has experienced a fundamental and widespread privatisation movement. Li and Rozelle (2003) suggest the most significant features of this process are that: (1) local government sold most firms—92%—to insiders, especially to managers; (2) complex methods were applied to assess the value of the firm's assets and debts. According to *China Statistics Yearbook*, the percentage of industrial output contributed by COEs increased from 22.37% in 1978 to 39.39% in 1996 and then experienced a significant decline in the following years and was down to 6.65% by 2003 (Lu et al. 2010).

Reforms in the state sector

Experimenting with state-owned enterprise (SOE) reform began even earlier than agricultural reform. From 1978 to 1983, the central government introduced a series of reforms, such as expanding enterprise autonomy, introducing profit retention schemes, and implementing the 'economic responsibility system' (Qian 2000; Smyth 1998). But the SOE reform was disappointing. The Third Plenum of the Twelfth Party

Congress held in October 1984 adopted a decision on China's economic reform, resulting in a significant change in ideology from 'plan as a principal part and market as supplementary part' to 'planned commodity economy' (put plan and market on equal footing) (Qian 2000). The Chinese Communist Party made two primary reform programs: 'the dual-track approach to market liberalisation' and 'contract responsibility system' in SOEs. The basic principle of the dual-track approach, emphasized by Qian (2002), is as follows:

Under the plan track, economic agents are assigned rights to and obligations for fixed quantities of goods at fixed planned prices as specified in the pre-existing plan. At the same time, a market track is introduced under which economic agents participate in the market at free market prices, provided that they fulfil their obligations under the pre-existing plan (p. 15).

The government experimented with the Contract Responsibility System (CRS) in the early 1980s and all the SOEs gradually adopted it to govern relationships between themselves and the state. Hassard et al. (2010) argue that there were two forms of state-enterprise contracts: 'enterprises would either turn over a fixed percentage of their profits each year to the state or turn over a set amount of profits annually' (p. 502). In this case, there is no privatisation in the state-owned sector at all until the mid-1990s. Although the central government accepted a set of reforms of the state-owned sector, the programme as a whole was deemed a failure (Hassard et al. 2010; Siqueira et al. 2009). In 1992, the Chinese Communist Party reset the 'establishment of a socialist market economy' as the ultimate goal of economic reform. In 1995, the CRS was officially terminated and Chinese SOEs moved towards marketization by

adopting two different strategies: privatisation of small SOEs and 'corporatisation' of medium and large SOEs.

The privatisation of small SOEs and widespread lay-offs from SOEs were two of the most significant features of Chinese society in the late 1990s. Under the slogan 'grasping the large and letting go of the small' (*zhuada fangxiao*), the central government and the local governments engaged in 'selling off small and medium SOEs to private individuals and keeping the large SOEs' (Siqueira et al. 2009: 209). During this process, a great number of profitable SOEs were privatised or had their assets stripped. Qian (2000) discloses the details of this large-scale privatisation:

One interpretation of "grasping the large" is to keep about 1,000 large enterprises as state owned...by the end of 1996, up to 70 percent of small SOEs had been privatized in pioneering provinces and about half were privatized in many other provinces (p. 22-23).

Meanwhile, two related models of reform, the Modern Enterprise System (MES) and Group Company System (GCS), were launched to replace the CRS programme (Hassard et al. 2010). This reform process for SOEs was designed to promote the 'corporatisation' of medium and large SOEs (Hassard and Sheehan 1997). To be specific, the primary aim of the MES programme was to promote new enterprise management mechanisms, whereas the GCS was intended to create large internationally-competitive companies (Hassard et al. 2007).

1.2.Recognition of private property rights in China

Private property rights have been widely established in mainland China through three sets of reforms: agricultural reform, privatisation in the non-state sector, and reform in the state sector. Economic transformation requires an appropriate set of corresponding legal frameworks centred on the protection of property rights, the enforcement of contracts, and the provision of physical and organizational infrastructure (Dixit 2003; Posner 1998). However, private property rights were not officially recognised as one kind of constitutional right until the fourth amendment of the 1982 Constitution in 2004 (Xu and Murphy 2008; M. Zhang 2008c). It took 26 years from the beginning of the economic reform to the official recognition of private property rights for many reasons, but ‘the most significant one is perhaps the clash between the drives for socialism and the concerns about capitalism’ (Zhang 2008c: 8).

Since the establishment of new China in 1949, it has had four constitutions: the first one was adopted in 1954, and then it was rewritten in 1975, 1978, and 1982. The 1982 Constitution was further amended in 1988, 1993, 1999 and 2004 (Ibid). Constitutional amendments pertaining to the selective rehabilitation of the ‘private’, summarised by Xu (2009c), are listed as follows:

Acknowledgement of the ‘individual economy’ (*geti jingji*) (1982); acceptance that a private economy (*siren jingji*) would be allowed to develop within the limits prescribed by law; recognition of urban land use rights transfer (1988); establishment of a ‘socialist market economy’ (1993); acceptance of the individual and private economy as important components of the socialist

market economy (1999); and finally recognition of important private property rights (2004). (p. 97)

At the outset of the reform era, the law had a new and important role to play—regulating the operation of state-owned enterprises (Clarke et al. 2006). A prime example was the Bankruptcy Law, passed in 1986. The great expansion in the number and importance of privately-owned enterprises required the legal system to provide sufficient protection and effective enforcement for safeguarding economic activities, but the legal system did not provide much in the early 1980s (Clarke et al. 2006: 8). Nevertheless, formal legal institutions became more responsive over time. Clarke et al. (2006: 8) also suggest that the co-evolution of economics and the law can be ‘exemplified in the sphere of foreign interactions’. China’s domestic legal system in the early reform-era was an obstacle for attracting foreign investors, which persuaded the Chinese government to establish a separate legal system for foreigners. The Chinese government found that the divided legal system confused foreign investors; this confusion was the major contributing factor to the decision to unify the separate legal regimes. The whole period of economic reform saw a mountain of laws and regulations enacted at the central and local levels. The absence of a systematic statement of the law of property was commonly regarded as one significant gap in China’s legal structure governing economic activity before 2007.

After the adoption of ‘Decision on Issues Concerning the Establishment of a Socialist Market Economic Structure’ by the Third Plenum of the Fourteenth Congress of the Chinese Communist Party in 1993, two teams, headed by Wang Liming and Liang

Huixing respectively, were organized by the central government to draft the Property Law. After a 14-year legislative marathon, the Property Law of China was passed by the National People's Congress on 16 March 2007. The Property Law put private property on an equal footing with public property for the first time since 1949 (Zimmerman 2010). Zhang (2008c) underlines the significance of the Property Law by pointing out that:

The Property Law is a significant piece of legislation in China because it on the one hand fills in the 'legal blank' in the country with regard to private property, or property in general. On the other hand, it helps enhance the legal infrastructure of the country by establishing a framework that is badly needed for the regulation and protection of property rights. More importantly, the Property Law reinforces the 'inviolable' nature of private property, a concept that was constantly denied in the country until 2004 when the 1982 Constitution was amended the fourth time. (p. 5)

1.3.The growing importance of China's legal system

In order to support economic growth and restore and maintain public order, the Third Plenum of the Eleventh Central Committee of the Communist Party of China, held in late 1978, reached a consensus about the need to build a legal system (Potter 2004). After this plenum, China's legal system developed in three main ways: legislative drafting, institution building and the growth of the legal profession, and the adoption of specific measures to strengthen enforcement (Lubman 1999; Peerenboom 2002b).

Law-making

During the initial period of legislative drafting (1978-1984), China's top legislature, the Standing Committee of the National People's Congress, focused its attention on areas of crime and punishment, public security, taxation, foreign investment, and contracts (Potter 2004). The second stage of legislative drafting included the adoption of the General Principles of Civil Law, the 1998 amendment of the Constitution, the passage of the Administrative Litigation Law, and the laws relating to state-owned enterprises and foreign business (i.e. the Enterprise Bankruptcy Law, the Foreign Economic Contract Law, the Law on Wholly Foreign-Owned Enterprises, and the Sino-Foreign Cooperative Joint Venture Law) (Lubman 1999; Peerenboom 2002b). China's law-making in the third period, from 1989 to 1992, was slowing down as the June Fourth Incident²⁶ in Tiananmen Square in 1989 had disastrous effects on China's economic and legal reforms. As Clarke et al. (2006: 13) show:

This period saw a brief attempt by the leadership under Li Peng (the Chinese Premier) to roll back reform, recentralize, and strengthen central planning, but the logic of reform soon reasserted itself.

²⁶ The June Fourth Incident, also known as the Tiananmen Square protests of 1989, refers to student-led popular demonstrations in Tiananmen Square, the centre of Beijing, China's capital city. The demonstrations aimed to enhance individual freedom and urge the Chinese government towards greater accountability. The protests were forcibly suppressed when hard-line leaders ordered the military to enforce martial law on 4 June 1989. For more information, please see: David A Ralston et al., 'Pre-Post Tiananmen Square: Changing Values of Chinese Managers', *Asia Pacific Journal of Management*, 12/1 (1995), 1-20.

The fourth and current stage, from Deng Xiaoping's 'Southern Tour'²⁷ (*nanxun*) in January 1992 until now, witnessed the construction of the legal infrastructure for China's socialist market economy, and most recently, the new objective of building a harmonious society (Clarke et al. 2006). The changes in formal law and legal process in this stage included the amendments of the Constitution in 1999 and 2004, the amendment of the Economic Contract Law in 1993, and the passage of a series of laws, such as the Law Against Unfair Competition (1993), the Foreign Trade Law (1994), the Price Law (1997), the Partnership Law (1997), the Anti-Dumping and Anti-Subsidy Regulations (passed in 1997 and reissued in 2001), the Administrative Licensing Law (2003), and the Property Law (2007).

To sum up, thirty-four years of Chinese legal reform saw a continuing succession of legal changes and the passage of a series of major laws. As Peerenboom (2011: 118) states, 'between 1979 and 2005, 805 laws, 4,156 State Council administrative regulations, 58,797 ministry-level rules, and 115,369 provincial people's congress regulations were passed'.

Institution building and the development of the legal profession

The transition to a market economy required legal institutions to serve 'as the mediators of the law and as the site for the performances of law' (Woo and Gallagher 2011: 7). Meanwhile, it stimulated the demand for legal practitioners.

²⁷ The reason why Deng Xiaoping started his 'Southern Tour', as Zhao (1993) argues, is that 'Deng resigned from his last office after the Tiananmen massacre; he had to come to the fore in early 1992 in defense of the reform policy he had launched thirteen years earlier at the third plenary session of the Eleventh Central Committee'. Please see: Suisheng Zhao, 'Deng Xiaoping's Southern Tour: Elite Politics in Post-Tiananmen China', *Asian Survey*, 33/8 (1993), 739-56.

Apart from legislative drafting, China's legal reforms also aimed at establishing the institutions and educating legal actors for implementing the rule of law. As Woo and Gallagher (2011) argues:

The Chinese state has implemented and encouraged the development of a wide array of competing legal institutions, ranging from the judiciary, the justice offices, and the legal affairs office to legal journals and periodicals—as well as a wide array of legal actors including judges, private lawyers, legal-service workers, and legal-affairs workers. (p. 7)

According to the Organic Law of the People's Courts (passed in 1980 and revised in 1983) and the 1982 State Constitution, China established four levels of courts in the general administrative structure. At the top of the structure is the Supreme People's Court; below it are the 32 Higher Level People's Courts (HLPC); below the HLPCs are 409 Intermediate Level People's Courts (ILPC); and at the bottom are the 3117 Basic Level People's Courts.²⁸ In addition to the establishment of the court system, China's economic reform saw 'the increase in the size and professionalism of the legal profession' (Peerenboom 2011: 118).

Law schools that were closed during the Cultural Revolution were reopened in the late 1970s, and the number of law schools has increased from 2 in 1976 to 183 in 1999, and around 559 in 2005 (Su 2006). The number of law students has increased from 233 in 1977, to 25,000 in 1991, and 450,000 in 2005 (Peerenboom 2011). As a

²⁸ See The Supreme People's Court of the People's Republic of China, 'Renmin fayuan jianjie' [The introduction of China's Court System], < <http://www.court.gov.cn/jgsz/rmfyjj/> >, accessed 04 July 2012.

result, the number of judges has shot up, from around 60,000 in 1981 to about 106,000 in 1995, and over 190,000 in 2010.²⁹ At the same time, 'the number of lawyers has increased from a few thousand in the early 1980s to more than 130,000 today' (Peerenboom 2011: 117).

Given the lack of judges and the dearth of lawyers in the early years of economic reform, the professional requirements for becoming a judge, a prosecutor or a lawyer were quite lax. As Clarke (1996) suggests, in the 1980s and 1990s, officials in China's judicial system were generally poorly educated, especially in Basic Level People's Courts, where a large proportion of judges were retired military officers. The year 2001 was the turning point of legal education and the legal profession. In that year, the amendments of the Judges Law, Prosecutors Law and the Lawyers Law required all candidates for the State Judicial Exam to have a college degree except those from certain poor areas (Ji 2005). Peerenboom (2011) describes the development of the legal profession in China:

In 1997, only 33 percent of lawyers had college or graduate degrees. By 2004, two-thirds had such degrees: 11 percent had graduate degrees, 44 percent had bachelor of law degrees (LL.Bs), and 12 percent had undergraduate degrees in other subjects...by 2004, 52 percent of judges were college graduates, up from 7 percent in 1995, and 44 percent of prosecutors and 51 percent of notaries also had college or graduate degrees. (p. 117-18)

²⁹ Ibid.

Increasing law enforcement and the trend towards more litigation

The most notorious problem in China's court system is that of execution—the courts' inability to enforce their own judgements.³⁰ This inevitably results in individuals and enterprises being unwilling to resort to the judicial system (Clarke 1996). While the recent publications evaluating the performance of the legal system show that enforcement of judicial decisions has significantly improved in urban areas, but it remains a problem in township and rural areas (Peerenboom 2011; Jingwen Zhu 2007). Regarding the enforcement of commercial judgements, He (2008) notes that the majority of creditors or plaintiffs in urban courts who seek compulsory enforcement are able to receive all or partial payment.

Evaluating the efficiency of contract enforcement by tracking the time, cost and number of procedures involved from the beginning of a lawsuit until actual payment, the World Bank's Doing Business 2009 survey states that China ranks 18th out of 181 countries in contract enforcement.³¹ He and Peerenboom (2009: 15) demonstrate that 'enforcement in China may be less problematic than in many jurisdictions, including rich countries such as the United States, the United Kingdom, or Russia'.

Past research on the general perception of official justice shows increasing public confidence and trust in the judiciary. For instance, Michelson and Read (2011), analysing survey data from Beijing (2001) on popular perceptions of official justice, report that over 60% of Beijing respondents have a positive perception of courts and

³⁰ In mainland China, execution chambers (*zhixing ting*) have been set up by the great majority of basic level and intermediate level people's courts to take charge of the execution of judgments.

³¹ World Bank & International Finance Corporation, Doing Business 2009: Comparing Regulation In 181 Countries 6 tbl.1.3, 97 (2008).

police. In a national survey (2003-4) of public trust in 13 public and legal institutions in China, respondents ranked their trust in the courts fourth (behind the Chinese Communist Party, National People's Congress and the procuracy) (Landry 2008).

To sum up, this section explores China's experience with gradual privatisation and continuing changes in the legal system. Private property rights have been established through agricultural reforms, reforms in state-owned enterprises and the privatisation of collectively-owned enterprises. The revival of private property requires post-Mao China to enact legal reform and create at least modestly effective legal systems. Recent studies show increasing public confidence and trust in Chinese legal institutions, which can be a positive outcome of three decades of legal reforms aiming at legislative drafting, institution building, improving the professionalism of the judiciary, and enhancing law enforcement capability.

2. The guanxi network before and after the 1978 economic reforms

It has been widely acknowledged that guanxi (simply translated as 'connections' or 'relations') is one of the major dynamics in Chinese society (Luo 1997). According to conventional wisdom among Chinese and foreigners, guanxi in the People's Republic of China is essential to the success of business deals and plays a significant role in the daily lives of people (Gold et al. 2002b). For instance, guanxi networks play an important role in China's emergent labour markets (Bian 1994a, 2002; Hanser 2002), in the emergence of lending and trade relations among firms (Keister 2002), and in creating business-state and business-government relations in China (Wank 2002).

A growing body of literature over the past three decades centred on two main questions: what type of phenomenon does guanxi represent in Chinese society? How

can we explain its significance as China's economy continues to develop? After long debates between cultural scholars and institutional theorists, China scholars have failed to reach a consensus on these enduring questions. Cultural scholars see guanxi as 'a unique type of relationship or a behavioural pattern deeply rooted in Chinese history and culture, where "particularistic ties" have long been used for instrumental purpose' (Chang 2011: 315). Culture-based elements, such as family, kinship ties, friendship circles, local conditions, and social norms and values from Confucianism have largely influenced the social interactions involved in the guanxi network (Dunning and Kim 2007; Fei et al. 1992; Hwang 1987; Jacobs 1979; Kipnis 1997; Tsui and Farh 1997; Yan 1996b). According to this perspective, guanxi retains its importance in China's political, social and economic life regardless of economic and political changes.

In contrast to the culture-based argument, institutional theorists suggest that guanxi practice should be reified as a reflection of broader institutional and historical changes (Gold et al. 2002a). People tend to rely more on guanxi practice where social and economic resources are wholly controlled by the central government, and the legal protection of property rights and the judicial enforcement of contracts are far from sufficient to meet the increasing demand (Gold 1985; Guthrie 1998; Potter 2002; Xin and Pearce 1996). Institutional theorists demonstrate that personal connections are used to 'bypass officially sanctioned, and onerous, bureaucratic procedures, solicit protection from more powerful actors, and acquire otherwise unavailable resources' (Chang 2011: 316). In this view, social and economic changes in China can greatly contribute to the evolution of guanxi practice (Ledeneva 2008).

This section presents a comparative study of guanxi practice before and after 1978. It aims to examine three hypotheses generated by China scholars: (1) as cultural scholars suggest, guanxi is embedded in China's culture and the Chinese way of life, thus economic forces and institutional changes are not sufficient to bring about major changes in its practice; (2) China's economic reform shows the resilience of guanxi and its latest developments (Yang 2002); (3) some institutional theorists argue that guanxi becomes less vital for Chinese people as a competitive market and a more developed legal system are established.

In order to explore guanxi practice before and after the 1978 economic reforms, three main aspects are incorporated in this section. The first part reviews the definition and intrinsic features of guanxi and outlines what distinguishes guanxi from relationship, social capital, and Western networking. The second part discusses guanxi practice before 1978, offering a general description of guanxi practice in Mao's China. The final part focuses on guanxi practice after 1978, exploring the role of guanxi and how it works in the new environment.

2.1. Definitions

The term guanxi does not have a precise English equivalent. It has traditionally been roughly translated as relationships between people, but it means more than this (Lee 2010; Michailova and Worm 2003). The Chinese word guanxi consists of two characters: guan and xi. The first character 'guan' as noun originally meant 'door', but today often refers to 'a barrier' or 'a pass'; 'guan' as verb refers to 'closing', and its extended meaning is 'doing someone a favour' (Fan 2002a; Luo 1997). The second character 'xi' as noun means 'system' or 'formalisation' or 'hierarchy', as verb means

to 'tie up' or 'extend into relationships', it is also sometimes used to refer to 'maintaining long-time relations' (Ambler 1994; Luo 1997).

The existing literature shows no consensus on the definition of guanxi. Jacobs (1979) interprets guanxi as connectedness or particularistic ties. Pye (1982) regards guanxi as friendship sustained by the continuing exchange of favours. Gold (1985: 660) defines guanxi as 'a power relationship, as one's control over a valued good or access to it gives power over others'. Hwang (1987) adds that guanxi is a type of reciprocal relationship. Osland (1990: 8) notes that 'the term [guanxi] refers to a special relationship between a person who needs something and a person who has the ability to give something'. Bian (1997: 369) suggests that guanxi literally means 'relationship or relation, but its essence is a set of interpersonal connections that facilitate exchanges of favours between people'. According to Bian (1994b), the term guanxi has multiple meanings: it can refer to the 'existence of a relationship between people' ('indirect relationship' or *jianjie guanxi*) (p. 974), or 'actual connections or contact between people' ('direct relationship' or *zhijie guanxi*) (p. 975). Drawing from a comparison of three types of guanxi (i.e. family guanxi, helper guanxi, and business guanxi), Fan (2002a) suggests a new definition:

Guanxi is the process of social interactions that initially involves two individuals...the process will move on involving more parties, and stop only when a solution is finally found or the task is abandoned. (p. 549, 551)

The Modern Chinese Dictionary indicates that a set of specialised terms derives from the word guanxi (Yang 1994). *Guanxixue* is identified as the art, technique, or study of establishing and manipulating guanxi (Gold 1985). If guanxi was defined as an

established relationship, then *guanxixue* is the science or study of how to utilise and sustain this special relationship (Chen 2000). Gold et al. (2002a: 6) point out the negative connotation of this term that implies ““going through the back door” to get something done, though it undeniably performs a positive function as well, especially if there is no formal “front door” available’. *Guanxihu* refers to people who possess strong connections or power to achieve a desired goal for themselves or other individuals (Bian 1994b). A *Guanxiwang* or a network of *guanxi* is the sum total or extent of one’s *guanxi*, comprising of both vertical and horizontal connections (Gold 1985). *Guanxi practice* is occasionally used interchangeably with *guanxi exchange*; both of them share identical meaning with *guanxixue*. As Yang (1994: 6) explains, *guanxi practice* involves a series of social interactions involved in *guanxi* networks, like ‘the exchange of gifts, favors and banquets; the cultivation of personal relationships and networks of mutual dependence; and the manufacturing of obligation and indebtedness’. Moreover, Li (2011b: 4) summarises the equivalent Chinese expressions of *guanxi practice* as follows: ‘*Gao* (to make/play) *guanxi*’, ‘*la* (to pull) *guanxi*’, ‘*zou* (to go through) *guanxi*’, ‘*tuo* (to seek for/pursue) *guanxi*’ or ‘*guanxi yunzuo*’ (operation of *guanxi*).

Four characteristics of *guanxi*, suggested by Jiang et al.(2012), are reciprocity, utilitarianism, transferability and intangibility. First, Chinese have ‘a strong sense of reciprocity for developing friendship and saving face for themselves’(Su and Littlefield 2001: 201); a person will be viewed as untrustworthy if he/she violates the principle of reciprocity. Second, *guanxi* relations are maintained through mutual exchange of favors. *Guanxi* is a mixture of *ganqing* (sentiments) and *renqing* (favors).

Renqing, the precondition for establishing *guanxi*, 'provides a moral foundation for the reciprocity and equity that are implicit in all *guanxi* relationships' (Luo 2000: 15). *Ganqing*, as the 'affective component' of *guanxi*, is defined by Wang (2007: 82) as 'refer[ing] to feelings and emotional attachment among members of networks, [which is] often an indicator of closeness of *guanxi*'. Third, *guanxi* is transferable. As Luo (2000: 10) explains, 'if A has *guanxi* with B and B is a friend of C, then B can introduce or recommend A to C or vice versa'; during this process, B functions as a middleman. Fourth, *guanxi* practice follows an invisible and unwritten code of reciprocity and equity (Yan 1996b).

Guanxi is a special relationship, but relationship cannot be equal to guanxi

It is commonly believed that *guanxi* cannot be established without a pre-existing *guanxi* base (relationship). As Jacobs (1979: 242) states, 'the existence or non-existence of a *guanxi* base determines the existence or non-existence of a *guanxi*'. Tsang (1998) points out that a *guanxi* base is composed of two types: blood relationship and social interconnection. The former includes 'family members, distant relatives, and even sharing the same surname', whereas the latter is created because of having gone to the same school, lived in the same community, worked for the same organization, or served in the same camp (Yi and Ellis 2000: 26). Furthermore, Fan (2002a: 547) divides social base (interconnection) into two types: relationship by nature and relationship acquired. The former includes 'locality (from the same town or province)', 'classmates or alumni', 'teacher-student' 'co-worker', 'neighbour', and 'in the same profession'. The latter includes 'acquaintance', 'intermediary', 'friend', and 'sworn brotherhood'.

However, the existence of a guanxi base (relationship) alone is not sufficient to establish strong guanxi, or produce (active) guanxi (Fan 2002a). Other factors or triggers are required to activate guanxi. For example, interacting, exchanging favours, building interpersonal trust, and working together over a period of time are necessary conditions for individuals to establish and maintain guanxi networks (Dunfee and Warren 2001). Moreover, Fan (2002a) argues that a guanxi can be developed between two strangers who do not have a guanxi base, which challenges the conventional definition. Compared with the development of guanxi between two individuals with a guanxi base, this guanxi process without pre-existing relationships may be more difficult and time-consuming, but is not uncommon in contemporary China (Ibid). In this case, a guanxi base (relationship) should be understood as a matter of fact, but guanxi is the result of using of the guanxi base for a specific purpose (Ibid).

Distinguishing guanxi from a generalised notion of social capital

In a very general sense, guanxi is a form of social capital (Bourdieu 1986) or social investment (Butterfield 1982). Guanxi is sometimes defined as ‘interpersonal investment relationship that can be built on long-term and sequentially reciprocal exchanges’ (Lee 2010: 333). The necessary conditions for the interpersonal investment to take place are the degrees of both ability and loyalty of recipient. The concept of social capital suggested by Bourdieu (1986: 248-49) is as follows:

Social capital is the aggregate of the actual or potential resources which are linked to possession of a durable network of more or less institutionalized relationships of mutual acquaintance and recognition—or in other words, to

membership in a group—which provides each of its members with the backing of the collectivity-owned capital, a ‘credential’ which entitles them to credit, in the various sense of the word.

However, Yan (1996b) emphasizes that it is necessary to distinguish guanxi from a generalised notion of social capital. Gold et al. (2002a: 7) point out two important aspects of guanxi that set it apart from social capital: (1) the central role of the notion of reciprocal obligation and indebtedness in the system of guanxi; (2) the importance of *ganqing* (affect/sentiment) in guanxi. Firstly, guanxi differs from social capital by involving a reciprocal obligation, which is the most important characteristic of guanxi (Bian and Ang 1997; Brunner et al. 1990). Luo (1997) argues that any individual who does not follow the rule of reciprocal obligations to respond to requests for assistance will lose face (*mianzi*)—an intangible form of social position—and be regarded as untrustworthy. As Gold et al. (2002a) note, guanxi is ‘a system of gifts and favors in which obligation and indebtedness are manufactured’ rather than simply an issue of interpersonal and social connections. Repayment is socially binding and without any time limits (Michailova and Worm 2003). Secondly, *ganqing* (affect/sentiment) is a core factor in the practice of guanxi production. As Kipnis (1997: 28) states, ‘practices of guanxi production rely on strategic and more and less successful attempts to generate *ganqing* and manipulate obligation’. Strong *ganqing* can produce a closer, more dependable and valuable guanxi, whereas weak or absent *ganqing* results in more distant and unreliable guanxi (Kiong and Kee 1998).

Comparing Chinese guanxi with Western networking

The literature on the growth of the firm identifies networking as one of three major strategies of growth; the other two are generic expansion and acquisition (Chandler 1962, 1990; Child 1972; Nelson and Winter 1982; Williamson 1985). The motivations for Western firms to adopt the strategy of growth through network formation vary, but include gaining access to core technologies and the resources of other network members, sharing risk, and entering into new markets (Thorelli 1986). Peng and Health (1996: 497) point out that such a strategy for growth reflects 'the focal firm's inability to possess all the necessary resources to undertake generic expansion alone or to merge and acquire other firms', and represents 'the firm's efforts to reduce environmental uncertainties through development of interorganizational relationships'. The peculiarly Chinese concept of *guanxi* also includes the above features of Western networks. But there are actually significant differences between *guanxi* and Western networking.

Firstly, although both concepts emphasize that networks are continuous relationships with the active and reciprocal involvement of both parties, the Chinese concept of *guanxi* can be 'distinguished from networking in the West chiefly by its focus on the utilitarian reciprocation of favors in an unequal dyad' (Yi and Ellis 2000: 25). *Guanxi*, at the individual level, links two persons of unequal rank or social status in such a way that exchanges always favour the weaker partner (Dunning and Kim 2007). Reciprocity in Western networks often entails exchanges of roughly equivalent value (Powell 2003), while the *guanxi* network in China facilitates exchanges between two people 'without an equal level of reciprocal obligation' (Park and Luo 2001: 457).

Secondly, in contrast to Western networking that is closely associated with 'commercially-based corporate-to-corporate relations', exchanges within the guanxi network are 'not solely commercial, but also social, involving the exchange of *renqing* (social and humanized obligation) and the giving of *mianzi* (face in the society) or social status' (Luo 1997: 47). Because of this difference, many Western businessmen fail to understand the cultural roots of guanxi and attempt to build guanxi only by wining, dining, and gift-giving. Luo emphasizes that guanxi is not simply a 'fee-for-service'; rather it is used to 'strengthen personal relationships, which may or may not be called upon in the future' (Ibid).

Moreover, networking in the Western management literature shows its significance in the growth of firm at the organizational level, whereas guanxi emphasizes the creation and development of personal relationship (Luo 2000; Yi and Ellis 2000). As Luo (1997: 44) suggests, 'guanxi between organizations is initially established by and continues to build upon personal relationship; when the person leaves, the organization loses that guanxi as well'. Ambler (1994) states that guanxi and Western networking can be distinguished by identifying whether transactions lead to relationships or vice versa; as he says, 'the Chinese believe that one should build the relationship [first] and, if successful, transactions will follow, [whereas] Westerners build transactions [first] and, if they are successful, a relationship will follow' (p. 71).

Last but not least, many China scholars believe that a person or an organization in a western network tend to serve as an intermediary out of self-interest. By contrast, a party in the guanxi network who serves as a middleman is normally motivated by the perception of social obligation (Li and Wright 2000). It is commonly recognised that

the individual who has a close relationship or has 'saved face' (*you mianzi*) with at least one party can be an intermediary 'providing the familiarity, trust, and obligation needed to tie together the help seeker and the potential helper' (Bian and Ang 1997: 985). Therefore, *guanxi* is transferable.

2.2. *Guanxi* practice under the political and institutional conditions of the pre-reform system

Mayfair Yang's book *Gifts, Favors, and Banquets* (1994) explores the significance of the *guanxi* network and *guanxi* practice in Communist China. She views *guanxi* as social relations, and regards *guanxi* practice as an institutional system offering an alternative path to the state-defined system (Yang 1994). Guthrie (1998: 256-57) summarises Yang's work on the concept of *guanxi* practice: it refers to 'the use of these social relationships [or *guanxi*] to make exchanges, manufacture indebtedness, or accomplish tasks' rather than the use of formal bureaucratic processes and procedures.

Under the central planning system, Chinese society was characterised by both low occupational and low spatial mobility because of the creation of a number of institutional arrangements, such as the production team system, the working point system, the work unit system, and the *hukou* (household registration) system (Lin 2002). Consequently, the reach of personal networks was seriously constrained and social exchanges were only available within short spatial distance, 'making it possible and likely to intensify the social interaction among members of this small community' (Lin 2002: 63). Moreover, given the extreme scarcity of opportunities (e.g. employment and career development) and resources (e.g. scarce goods) that could

not be supplied through alternative channels, a person would find it extremely difficult to survive without cultivating and maintaining *guanxi* with those who took charge of benefit and opportunity allocations, with those who could serve as an intermediary facilitating the help seeker to gaining access to the potential helper, and even with potential spoilers who could completely destroy one's career or end one's life by using reasons like 'removing capitalists', 'reacting to the reactionaries' and 'cleaning traditional elements' of the Communist Party of China (Lin 2002). In this case, 'there was a high degree of non-substitutability for a large part of one's *guanxi* networks' (Lin, 2002: 64).

Yang (1994) argues that the increasing importance of *guanxi* practice during the period of the Cultural Revolution (1966-1976) can be attributed to two factors. First, people had to rely on the use of personal relationships rather than state-sponsored frameworks to secure everyday survival when China's traditional social order was wholly destroyed by the Cultural Revolution (Ibid). Guthrie (1998) discloses the details about what happened in that period and how people responded to those changes:

In the chaos of the Cultural Revolution, people faced the prospect of their children being sent down to remote areas of the countryside, the constant threat of denunciation, and, at the close of the Cultural Revolution, the prospect of trying to find jobs for the displaced youth as they returned to urban areas. Individuals relied on the exchange of gifts and favours among personal connections to find ways to deal with these social crises. (p. 257)

Second, in response to extreme politicisation and red terror (mass campaigns of the Red Guards in China), practitioners of guanxixue (the art of guanxi) engaged in social exchanges according to the moral and social principles of reciprocity and obligation to 'protect themselves from state control and reduce their dependency on the state for material resources and social sustenance' (Yang 1994: 158).

2.3.The resilience of guanxi and its new sites of operation in the reform period

The market transition theory shows that a transition to markets in a socialist economy involves the decline of political power and connections in the post-socialist context and the establishment of markets with fully legitimated and well-defined private property rights (Cao and Nee 2000; Nee 1989, 1992; Szelenyi and Kostello 1996). Given institutional changes and socioeconomic development brought by economic reforms, there is considerable disagreement among scholars over the effect and fate of guanxi in the reform period. A theory of the declining significance of guanxi suggested by Douglas Guthrie posits that the construction of rational-legal institutional mechanisms at the state level is the major force in the diminishing importance of guanxi practice (Guthrie 1998, 1999, 2002; Kennedy 2005; Kung 1999). The main arguments in support of the declining significance of guanxi can be summarised as follows: on the one hand, the emerging legal structures that govern the practices and economic activities of industrial organizations make the practice of guanxi obsolete; on the other hand, economic and political actors in a competitive market environment focus more attention on the rise of quality and efficiency than on the norms of guanxi practice (Guthrie 1998). In parallel with Guthrie's viewpoint,

Hanser (2002) examines the importance of guanxi in youth job searches in urban China. He concludes that the old system of centralised job allocation that placed significant reliance on guanxi has been largely dismantled by these economic and social changes in the reform era. As a result, most young urbanites are more likely to find jobs on their own rather than via the use of guanxi.

Peerenboom (2002a: 6) emphasizes the shortcomings of exclusive reliance on personal connections in China by arguing that: 'as the economy grows...reliance on relationships rather than generally applicable laws and formal legal institutions becomes less effective'. As he explains, a greater number of transactions coupled with increased complexity make the guanxi network less useful for conveying information and less efficient for resolving disputes (Peerenboom 2002a). Moreover, the formal legal system possesses the ability not only to protect property rights and enforce contracts, but also to make it more difficult and risky for people who rely on guanxi practice to circumvent legal requirements (Ibid).

However, theoretical arguments for regarding the importance of guanxi as decreasing because of the creation of an appropriate legal structure and a market economy are challenged by many China theorists (Bian et al. 2005; Gold 1985; Hsing 1998; Ledeneva 2008; Michelson 2007; Yang 2002). Nee (1992) states that widespread uncertainties in changing institutional environments force individuals and enterprises to invest heavily in personal connections (guanxi). Based on two years of ethnographic field research in the private economy in Xiamen, Wank (1999, 2001) suggests that guanxi plays a significant role in the business decisions of private entrepreneurs, and emphasizes that particularistic identities and personal

obligations are extremely important in an environment where courts are considered corrupt. Regarding the effect of guanxi on job assignment, Bian (1997: 366) suggests that personal networks in post-Mao China 'are used to influence authorities who in turn assign jobs as favours to their contacts, which is a type of unauthorized activity facilitated by strong ties characterized by trust and obligation.'

In responding to Guthrie's arguments, Yang (2002) insists, again from an ethnographic perspective, on the enduring importance of guanxi in Chinese society, and demonstrates that old contexts of guanxi usage—the acquisition of consumer goods and provision of everyday needs—decline, but new ones emerge. As Yang (2002: 463) indicates, 'guanxi now flourishes in the realm of business and the urban-industrial sphere, whether in dealings among private entrepreneurs, between private entrepreneurs and state managers, or between entrepreneurs and officials, especially local officials'.

Furthermore, a rapidly increasing phenomenon in the reform period is the conflation of guanxi with corruption and bribery (Yang 2002). For example, Zhan (2012) examines the corruption-facilitating roles of the guanxi network. She explores how transactional corruption through particularistic ties was realised through the three functions of the guanxi network: communication, exchange and normative functions. Li (2011b) investigates guanxi-practice functions as 'alternative operating mechanisms' in the process of initiating corrupt transactions between the bribers and the bribed. As Li (2011b: 20) argues, the participants in corruption adopt 'guanxi-practice as an enabling operating mechanism' to overcome the legal, moral and cognitive barriers.

As mentioned above, it is rational to view guanxi as 'an institutionally-defined system' rather than 'a deep-seated cultural fact of Chinese society' (Guthrie 1998: 255). The implementation of economic policies by the Chinese Central Government has resulted in immense changes in Chinese society, including the change of guanxi practice. A theory of the declining significance of guanxi fails to predict the fate of guanxi during the post reform period, thus it is problematized by a lot of China scholars. This chapter agrees with Yang's (2002) argument that guanxi lose its importance in traditional areas of the acquisition of consumer goods and provision of everyday needs, but guanxi now flourishes in new sites: the realm of business, the urban-industrial sphere, and corrupt exchange. The resilience of guanxi and the creation of a rational-legal structure stimulate research into how these two systems coexist in contemporary China. Moreover, as China's legal framework and markets change continuously and quickly, it is important to examine how guanxi works in Chinese society after the 1978 economic reform.

3. Guanxi and the legal system in contemporary China: virtuous circle or collision course?

In order to explore whether the juxtaposition of these two systems produces a positive outcome, it is necessary for scholars to focus on the interactions between these two sets of institutions. Based on a theory of formal-informal institutional interaction, this part explores how the institutions substitute, complement or undermine each other (Brinks 2003; Chavance 2008; Helmke and Levitsky 2004).

Helmke and Levitsky (2004: 728) develop a typology of four patterns of formal-informal institutional interaction: 'complementary', 'accommodating', 'competing',

and 'substitutive'. They define informal institutions as 'socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels', while formal institutions are regarded as 'rules and procedures that are created, communicated, and enforced through channels widely accepted as official', for example, state institutions (courts, legislatures, bureaucracies) and state-enforced rules (constitutions, laws, regulations) (Helmke and Levitsky 2004: 727). Where the informal rule leads to a substantively similar result from that 'expected from a strict and exclusive adherence to formal rules', the formal-informal institutional relationship is either substitutive or complementary (Helmke and Levitsky 2004: 728). Where the two outcomes are substantively different, the formal-informal institutional relationship is either competing or accommodating (Helmke and Levitsky 2004).

In examining the interactions between formal and informal institutions, existing typologies have assumed that an effective legal framework has been established (Helmke and Levitsky 2006). However, such typologies in transitional settings are less helpful (Grzymala-Busse 2010). Formal institutions in transitional settings are characterised by instability since 'these are constantly being abolished, transformed, and established anew' (Grzymala-Busse 2010: 313). Therefore, the best laid plan of examining formal-informal institutional interactions in transitional regimes focuses on the influence of informal rules on formal institutions. Regarding the co-existence of *guanxi* and the formal legal system, it is logical to focus on the impact of *guanxi* on the functioning of formal rules in post-Mao China where legal institutions are in a state of flux.

Drawing on Helmke and Levitsky's (2004, 2006) study of informal institutions and comparative politics, the relationship between guanxi and formal institutions is either substitutive or complementary, since guanxi practice produces outcomes compatible with formal rules. Similarly, a series of publications from China scholars also view the Chinese guanxi network as informal institution that substitute or compensate for legal institutions (Potter 2002; Xin and Pearce 1996; Zhang and Keh 2009). However, arguments about guanxi and the formal legal system functioning as substitutes or complements ignore the fact that guanxi, to a large extent, distorts China's legal framework.

This section includes two primary parts. The first part emphasizes that China's economic development and legal reform create a virtuous circle of efficient and mutually supportive co-existence between guanxi and the legal framework. It bases itself on the existing literature on guanxi, and interprets the substitutive and complementary relationship between guanxi and a formal legal system. By contrast, the second part challenges the popular viewpoint on the juxtaposition of these two systems, and suggests that guanxi networks are on a collision course with the formal legal institutions. It emphasizes the 'symbiotic' or 'parasitic' relationship between the guanxi network and corruption, and develops a new perspective: that guanxi distorts or subverts the Chinese legal system.

3.1.Guanxi and the formal legal system: From substitutivity to complementarity

3.1.1. Guanxi as a substitutive informal institution

Informal institutions can replace formal institutions in environments where formal rules are not routinely enforced and fail to protect its citizens (Grzymala-Busse 2010; Helmke and Levitsky 2006). In this case, 'substitutive informal institutions achieve what formal institutions were designed, but failed, to achieve' (Helmke and Levitsky 2004: 729). Xin and Pearce (1996) emphasize the rule of connections (guanxi) as 'structural support' which is highly valued by enterprise managers. China's transitional economy is characterised by ill-defined property rights, a weak market structure, institutional uncertainty, and incomplete institutional foundation (Nee 1992, 2000). This was especially true in the 1980s and 1990s, but still holds true today. Under such circumstances Chinese private companies have difficulty gaining access to state resources and getting capital. Furthermore, in a country with poorly-specified property rights, private firms are subject to threatening interference and arbitrary extortion by party and governmental officials since society lacks a reliable rule of law (Peng 2003; Xin and Pearce 1996).

Luo (2007) suggests that enterprise managers perceive the court system in China as weak due to two major sources: first, less-developed areas are generally characterised by insufficient legal protection, weaker law enforcement, and poorer legal services, in which the judicial system and the local governments suffer more from corruption than do others. Second, interpersonal or interorganizational connections with government authorities and local judiciary play a pivotal role in

China; thus managers with fewer political connections or ties will perceive poor legal enforceability.

When managers perceive that the legal system is not trustworthy and cannot protect their interests, they are more likely to rely on 'relational reliability' (guanxi) to safeguard transactions (Zhou and Poppo 2010). Depending on interviews with executives from three types of Chinese organizations—state-owned, privately-owned, and collective-hybrid companies—Xin and Pearce (1996: 1644) find that 'guanxi is more important to managers with great need for a substitute for formal structural support'. Guanxi as a substitute for formal institutional support facilitates executives, especially those from private companies, to counteract liabilities caused by their organizations' youth and smallness, to get access to state resources, and to defend themselves against threats (e.g. appropriation, extortion) from governmental officials (Xin and Pearce 1996).

In parallel with Xin and Pearce's argument, Park and Luo (2001) posit that guanxi has significant effects on company performance in China. In a transitional economy with ambiguous property rights and weak competition policies, 'Chinese firms develop guanxi as a strategic mechanism to overcome competitive and resource disadvantages by cooperating and exchanging favors with competitive forces and government authorities' (Park and Luo 2001: 455).

In regions where the legal system is experienced as untrustworthy or unpredictable, guanxi networks are frequently adopted by individuals and enterprises to safeguard market exchanges characterised by non-trivial hazards, including environmental uncertainty, behavioural uncertainty, and asset specificity (Zhou and Poppo 2010). The

transaction cost theory indicates how guanxi-based exchange deals with these governance problems (Standifird and Marshall 2000).

Firstly, the guanxi network facilitates the transfer of knowledge, which can largely reduce transaction costs caused by environmental uncertainties (Standifird and Marshall 2000: 30). The broad information concerning potential exchange partners provided by guanxi addresses the governance problem of adaptation. This is because guanxi can reduce costs relating to screening and selecting partners, and reduce expenses derived from 'communicating, negotiating and coordinating transactions, as well as maladaptation and/or a failure to adopt' (Standifird and Marshall 2000: 31).

Secondly, guanxi possesses the capability to reduce transaction costs related to behavioural uncertainties, as Standifird and Marshall (2000: 31) argue, 'a failure to uphold obligations is destructive to all members because of the interlocked nature of a guanxi network'. Moreover, opportunistic behaviour is less prevalent in the guanxi network that is well developed. As Strandifird and Marshall explain:

Opportunistic behaviour with one exchange partner can be easily interpreted as opportunistic behaviour with the entire network...in a guanxi network, the cost of opportunism is the potential loss of exchange opportunities with all members of the guanxi network. (p. 32)

Last but not least, a well-developed guanxi network in China can efficiently reduce opportunism associated with asset specificity (Artz and Brush 2000; Standifird and Marshall 2000). As Standifird and Marshall (2000: 27) explain, governance

problem arises 'when a decision-maker deploys specific assets to an exchange and fears its partner may opportunistically exploit these investments'. When the guanxi network is well developed, the threat of opportunistic behaviour within guanxi-based exchanges is significantly reduced (Standifird and Marshall 2000). The decreasing threat of opportunism comes from two sources: first, exchange partner is reluctant to sacrifice the initial investments or sunk costs that are used to establish initial relationship when he enters into a guanxi network; second, it seems impossible to re-enter a guanxi relationship that has been severed (Yau 1988).

In the reform era, guanxi and the legal system are working together to manage changing social and economic conditions. The interactional relationship between guanxi and the legal system continues to evolve as the rule of law and legal institutions become more important to response to changing conditions. As Potter (2002: 183) argues, the role of guanxi in the course of China's on-going legal reforms and economic development 'may increasingly be seen to operate as a complement to rather than a substitute for the role of formal institutions'.

3.1.2. Guanxi as a complementary informal institution

In recent years, scholars show their intense interests in comparing guanxi networks with the codified law system. 'The information structure' identified by Li (2003) is one important factor in distinguishing guanxi-based governance from rule-based governance. Guanxi-based governance largely relies on 'club information' only available to individuals from the guanxi network, while rule-based governance largely relies on publicly verifiable information (Ibid). Schramm and Taube (2003a)

regard transaction security provided by guanxi networks as a club good, while viewing transaction security provided by the legal system as a public good. They further state that the guanxi network is characterised by high initial investment or sunk costs (in order to be a member of the club) and marginal transaction costs relating to searching transaction partners. While there are no fixed costs in a codified legal system, the costs of enforcement are high if the judiciary is not sufficiently independent or effective (Schramm and Taube 2003b).

The limitations of guanxi-based governance have become obvious since China gradually strengthened its legal framework and its socialist market has dramatically expanded. Firstly, the guanxi network has to increase its size in order to meet the increasing demand from its members. When the guanxi network exceeds its optimal size, the ability to sanction misbehaviour is challenged and the costs of informing club members of the trustworthiness of all others increase (Schramm and Taube 2003a). Secondly, as the market expands and the number of business partners increases, the costs of screening and testing a new partner also increase and switching to a new partner becomes riskier (Li 2003). However, transaction security offered by an institutional legal system can effectively deal with this problem (Buchanan 1965). In a well-established legal system, 'the marginal costs of enforcing an (additional) contract between an (additional) transaction pair are negligible due to the fact that the contract is explicit, impersonal, and standardized, and that the police are on standby' (Li 2003: 657). As a result, when the average cost of a guanxi-based system surpasses the average cost of a codified and institutional legal system in the process of market development and judicial reform, the guanxi network will

not be able to compete with the formal legal institutions (Li 2003; Schramm and Taube 2003a).

Similarly, the theory of institutional interactions indicates that 'as markets develop, formal institutions based on law and contracts should supplant a traditional reliance on informal mechanisms, such as personal relationships or trust' (Poppo and Zenger 2002; K. Z. Zhou and Poppo 2010: 864). This theory further demonstrates that complementary informal institutions 'fill the gaps either by addressing contingencies not dealt with in the formal rules or by facilitating the pursuit of individual goals within the formal institutional framework' (Helmke and Levitsky 2004: 728). In order to present a clear understanding of the increasing role of China's formal legal system and the changing interactional relationship between *guanxi* and the legal framework, it is worth offering an general description of Potter's (2002) study of the changing attitude towards the legal system in the 1990s as well as Zhang and Keh's (2009) study of how organizations, in the new century, rely more on the rule of law and legal institutions than the *guanxi* network to secure their transactions.

Potter (2002) examines the complementary relationship between *guanxi* and formal legal institutions through three case studies: 'attitudes about *guanxi* in domestic legal relations', '*guanxi* and foreign-related dispute resolution', and '*guanxi* and judicial behaviour'. The first case study focuses on how private entrepreneurs responded to the enforcement of loan agreements in 1994. It suggests that judicial action would be sought only after the respondent failed to persuade the debtor to perform by using relational dynamics, which shows 'growing acceptance of formal law requirements on formation and enforcement' (Potter 2002: 184). The second

case study of the rule of guanxi in resolving foreign-related disputes suggests ‘the increased willingness of Chinese parties to turn disputes over to lawyers and other professionals’ (Potter 2002: 188). The third case study concentrates on the emerging complementarity between guanxi and the legal framework in the judicial behaviour of lawyers and legal officials. Potter (2002) states that there is increased recognition among law makers and high-ranking governmental officials of the need to provide clear formal rules governing the behaviour of lawyers and legal officials and the need to protect judicial decision-making mechanisms from the demands of guanxi networks. In his conclusion, Potter (2002: 195) points out that although the role of guanxi is limited by the rule of law and China’s legal institutions, legal reforms remain incomplete and the traditional Chinese practice of guanxi still ‘plays an essential role in providing predictability to legal actors’. In this case, the complementary relationship between China’s socialist legal system and guanxi will continue its existence in the foreseeable future.

Based on institutional theory, resource dependence theory, agency theory, and evolutionary theory, Zhang and Keh (2009) analyse how organizations in China—state-owned, privately-owned and foreign-invested enterprises—choose governance mechanisms in terms of formal contracts and informal guanxi, and predict the evolution of governance mechanisms with institutional change. By studying interactions between different organizational forms and between institutions and organizations in the late 2000s, Zhang and Keh’s (2009) viewpoint contradicts the popular perception of the significance of guanxi in managing interorganizational

relations (Park and Luo 2001; Xin and Pearce 1996). As Zhang and Keh (2009: 143) state:

Guanxi remains a potent governance mechanism. With the exception of FIEs [foreign invested enterprises] that largely favour contractual governance, guanxi is still prevalent among SOEs [state-owned enterprises], POEs [private owned enterprises], and HKMTEs [Hong Kong, Macau, and Taiwan-invested enterprises]...but forces [like institutional change, market competition, and the risk and disruptive result of guanxi utilization] are driving interorganizational governance mechanisms toward more formal means.

Intuitively, it seems right to argue that institutional changes, market competition and the limitations of guanxi-based governance will result in a rapid and complete replacement of guanxi by the formal legal system in the foreseeable future. It is not, however, true. Firstly, a high initial investment in social capital for a membership in the guanxi network brings an inherent incentive for an economic actor to maximise possible transactions. As Schramm and Taube (2003a) argue, the individual economic actor will persist in using a once-established system of order (i.e. the guanxi network) until the costs of maintaining the existing system surpass markedly the costs of using the Chinese legal system. Secondly, guanxi as the major cultural feature of China is embedded, and remains embedded, in every aspect of Chinese social life (Yan 1996a); thus economic efficiency considerations are far from enough to predict the reduction of the importance of guanxi networks. Most importantly, it is still not clear whether the performance of China's legal system is superior to the guanxi network or that it will be in the foreseeable future. It has been widely

acknowledged that China's legal reforms have failed to resolve many problems, including corruption (Manion 2004; Sun 2004; Wedeman 2012a), the lack of judicial independence (Balme 2009; Henderson 2009; Peerenboom 2009), the gap between the law in the book and the law in action (Li 2012), and the unequal protection between public property rights and private property rights (Zhang 2008c). Consequently, guanxi networks cannot be rapidly replaced by the legal system and the complementary relationship between these two systems will continue to exist for a long time.

Guanxi in the reform era fills the gaps created by China's imperfect legal framework. The co-existence of these two systems of order brings great benefits to Chinese society since it provides two distinctive and complementary systems of protection and enforcement. The guanxi network will continue to play a vital role, for instance, fulfilling 'protection deficits' caused by the formal legal structure and facilitating the pursuit of individual goals within the legal framework. This might imply that the long-time coexistence between guanxi and the formal legal framework could guarantee that economic actors receive sufficient support, allowing China to smoothly continue its reformation of the economy and judiciary. However, the following section offers a very different picture. It posits that the juxtaposition of guanxi-based governance and rule-based governance produces fewer positive outcomes. The resilience of guanxi networks undermines and distorts the legal framework, making China's judicial system problematic. As a result, individuals distrust the judicial system, perceiving the judiciary as corrupt, unequal and inefficient.

3.2.The subversive effects of guanxi and corruption on formal institutions

Guanxi, as an informal institution, starts off by substituting and complementing formal rules, but it eventually subverts new formal institutions. A theory of institutional interaction suggests that informal institutions, in some circumstances, undermine and contravene the newly-formed or existing formal institutions (Böröcz 2000; Grzymala-Busse 2010; Lauth 2000). The negative impact of the guanxi network on formal institutions is derived from the increasing intertwinement between guanxi and corruption (Luo 2008).

The establishment of an institutional framework that is superior in terms of its ability to supply legal security at a supra-individual level may largely reduce the demand for guanxi transactions (Schramm and Taube 2004). Furthermore, if the rule of law and legal institutions 'provide officials with legitimate justification for denying requests for favouritism based on guanxi ties [and protecting] officials from the demand of guanxi networks' (Potter 2002: 188-89), the corrosive effect of guanxi can be reduced to the lowest level. The Chinese government, however, has failed to reduce the negative influence of guanxi on its formal legal system; in other words, corrupt activities are embedded in the guanxi network. This part primarily focuses on two ways in which guanxi weakens formal institutions. First, it discusses the embeddedness of corruption in guanxi networks; second, it explores corruption in the judicial system by examining whether China's judicial reform succeeds in preventing judicial decision-making mechanisms from subversion by guanxi networks.

3.2.1. The embeddedness of corruption in guanxi networks

Corruption is generally understood as the abuse of public office for private gains. Drawing from a critical review of recent literature on Chinese corruption, Ko and Weng (2011: 374) suggest a tentative definition of Chinese corruption: ‘publicly unacceptable misbehavior committed by state functionaries for private gains at the expense of public interests, and/or causing intentional and unintentional damage to public interests and values’. The phenomenon of Chinese corruption can be interpreted as the juxtaposition of guanxi and the legal system with differing functional principles and values (Schramm and Taube 2003a). From the perspective of guanxi-based governance, the provision of certain goods and the implementation of transactions (between money and power) among club members are normal or even necessary within the guanxi network, whereas these interpersonal activities may fall within the sphere of corruption when they are assessed from a legal perspective (Goudie and Stasavage 1998; Schramm and Taube 2004; Yu 2008b).

It is commonly accepted that transaction costs are much higher in illegal and corrupt activities when compared with transactions in ordinary markets (della Porta and Vannucci 2005). There are several reasons for this. First, in order to avoid being discovered and arrested by control agencies (such as the judiciary and the police), the operating environment in which corrupt transactions are implemented is characterised by a high degree of secrecy, lack of transparency, limited participation, and a high withdrawal costs (Lambsdorff 2002). Secondly, transaction costs increase as more effort is required to search for a proper counterpart and gather sufficient information to ‘evaluate the quality and adequacy of each of their products as well

as their individual capacity and willingness to comply with corrupt contracts' (Lambsdorff 2002: 222).

Corruption agreements are also subject to a high risk of being cheated by the counterpart. This is caused by two main factors: on the one hand, 'corrupt transactions are often non-simultaneous in nature, and one party must rely upon the word of the other' (della Porta and Vannucci 2005: 153); on the other hand, corrupt transactions operate clandestinely and cannot be enforced by formal institutions (della Porta and Vannucci 2005; Lambsdorff 2002).

In China, the *guanxi* network has always been regarded as an efficient mechanism for solving the problems frequently encountered during corrupt transactions. As Schramm and Taube (2003) state, *guanxi*-based governance provides a 'transaction-cost-minimising' solution for sustaining the enforcement of corrupt transactions. Similarly, della Porta and Vannucci (2004: 187) show that relation-based enforcement mechanisms can effectively fulfil 'the demand for protection of the fragile and uncertain property at stake in the corruption domain'. Most recently, Zhan (2012) focuses on the corruption-facilitating role of the *guanxi* network, for instance, the role of *guanxi* in dealing with an ineffective flow of information and managing environments with high uncertainty. The communication, exchange, and normative functions of the Chinese *guanxi* networks, suggested by Zhan (2012), provide a clear understanding about why economic actors tend to choose *guanxi* networks as a preferred mode of governance securing their corrupt transactions.

Guanxi as a transmitter of information: The *guanxi* network functions as a significant transmitter of information, facilitating transactional corruption (Zhan 2012). Firstly,

as Zhan (2012) states, the partners of a corrupt agreement can rely on information supplied by the guanxi network to identify the seller or buyer of corrupt benefits rather than resorting to public channels. This guarantees the secret nature of the corrupt exchange. Secondly, Zhan suggests that the guanxi network possesses the capability to lower the risks of corrupt transaction for two reasons. On the one hand, in order to maintain a good reputation that is fundamentally important for every member in the club, the guanxi network prevents either side of the transaction from reneging after the other side has made the payment. On the other hand, it reduces the risk of being punished by the Chinese legal system as mutual trust within the network prevents the disclosure of information relating to bribery and corruption. Finally, the guanxi network is able to provide a convenient and private channel of dissemination because crucial information flowing through the guanxi network is non-transparent (Zhan 2012). The guanxi network largely relies on 'non-(publicly) verifiable private information, and each party may have incentives to hide his partner's private information in order to prevent potential competitors from stealing the relation or to cover up bad outcomes to capture the information rent' (Li 2003).

The role of the guanxi network in corrupt exchange: The exchange function, emphasized by Zhan (2012: 102), is 'the second and perhaps the most direct corruption-facilitating effect of [the] guanxi network'. The guanxi network offers a non-public mechanism of distributing corrupt benefits between their holders and receivers. When formal institutions fail to 'clearly specify criteria for the distribution and to strictly enforce the criteria' (Zhang 2012: 2013), government officials make use of the guanxi network to manoeuvre their power to personal benefit, including

money, expensive gifts, sex, and even promotion (Wang 2012b). The guanxi network facilitates the distribution of valuable resources and opportunities from officials to those who have established connections with them. As Zhan (2012) demonstrates, corrupt exchanges within guanxi networks are difficult to monitor, detect, or expose, for two reasons. First, 'exchanges through guanxi networks are exclusive to people in the network' (Zhang 2012: online), and the dispenser of corrupt benefits normally allocates scarce resources and distributes opportunities (i.e. career mobility) with the help seekers who possess the strongest particularistic ties with the dispenser. This is a departure from market transactions that are based on price competition. Second, a corrupt exchange within a guanxi network is characterised by implicitness and a relatively long time horizon, making it extremely difficult for outsiders to detect.

The role of guanxi in reducing the moral costs of corruption: Political culture and moral attitudes among citizens and public officials have direct and indirect influences on the moral costs of corruption (Andvig and Moene 1990). The 'normative' function of the guanxi network, emphasized by Zhan (2012), reduces the moral cost of corruption, resulting in rampant corruption in contemporary China. People's behaviour in a society with strong interpersonal relations is largely circumscribed by 'the social norm of guanxi such as maintaining a long-term relationship, mutual commitment, loyalty, and obligation', while they may care less about general social norms and formal rules (Chen and Chen 2004a: 306).

Zhan (2012) indicates several normative elements of guanxi that encourage public officials to engage in corruption. First, the principle of reciprocity not only protects

corrupt transactions, but also makes corrupt exchanges through guanxi networks attractive. To be specific, given that corrupt exchange is illegal, 'victims' of corrupt transactions cannot be protected by the judicial system, whereas the guanxi network can sufficiently protect both parties involved in the exchange as 'the fear [of] sanctions from other members of the network can significantly discourage dishonesty and defection' (Zhan 2012: 104). Moreover, bribers within the guanxi network can normally obtain what they want at a lower price, making corruption attractive for companies, individuals and public servants. This is different from market transactions where the price a commodity is high when there are a large number of competitors. Second, the norm of gift giving legitimises bribery to a certain degree (Zhan 2012). Gift giving, as a prevalent social custom in China, is fundamental to establish and maintain a network of personal relationships (guanxi). As Steidlmeier (1999) argues,

Practices of gift giving in China include visual behavioral patterns (organizational artifacts), which are enshrined in rites (*li*) of proper conduct. Such rites themselves are rooted in normative and prescriptive canons of righteousness (*yi*) and benevolence (*ren*), which express why such actions are culturally meaningful or logical. (p. 121)

The Chinese traditional holidays such as the Mid-August Festival and the Spring Festival, and important family functions such as birthday parties, weddings and funerals, are regarded as ideal opportunities for seekers of corrupt benefits to present gifts (Wang 2013b; Zhan 2012). Under such circumstances the officials feel obliged to accept these gifts filled with love and care. After accepting these gifts, the

officials have to follow the principle of reciprocity that is also regarded as a type of moral action. Third, the guanxi network can distort the moral judgement that is used to decide whether a certain action is good or bad, right or wrong (Steidlmeier 1999).

Zhan (2012) indicates how the norm-distorting effect of guanxi network functions:

A common theme of the repentances is that these convicted officials started off very clean when first entering a new working environment; but after repeatedly witnessing the corrupt activities of their colleagues and friends, they eventually succumbed to the corrupt environment and went down the same path, partly because if they did not do so, they would face enormous difficulty in earning the trust and cooperation of the peers and carrying out their own work. (Online)

The corruption-facilitating function of guanxi networks stimulates more people to engage in guanxi-based corruption in order to get the thing done, which greatly undermines legal institutions. Wedeman (2012a) states that, as Chinese economic reform deepened, the mode of corruption shifted from non-transactional corruption such as the embezzlement of state funds and the theft of state property to various forms of transactional corruption that can be done through market mechanisms or particularistic relationships. Moreover, Luo (2008) demonstrates that guanxi and corruption are highly intertwined in contemporary China. He further indicates that guanxi provides 'a fertile soil in China for corruption to flourish', and that legitimate businessmen may be forced to develop what Luo refers to as corrupted guanxi networks and engage in corruption because guanxi is the source of sustained competitive advantage (Luo 2008: 192).

3.2.2. The effects of guanxi networks on judicial corruption

'Is the Chinese judicial system corrupt?' is the primary question this part aims to explore. Generally speaking, the reduction of judicial corruption in China is determined by three main aspects. First, decreases in judicial corruption depend on the extent to which China's laws are able to efficiently regulate the gift exchanges between judges and private actors in guanxi networks. Second, decreases in judicial corruption will depend on the establishment of a judicial system, especially the decision-making mechanism, which can protect judges from the demands of guanxi networks. Third, judicial corruption will only decrease if China's judicial system can prevent the informal linkages between judges and politicians that jeopardise judicial independence.

As Millington et al. (2005) argue, 'gift giving appears to be associated with illicit payments, corruption and the pursuit of self-interest in a society where traditional structures are breaking down and new institutional structures are in transition' (p. 265). Therefore, laws and regulations that can regulate the gift exchanges between judges and private actors are profoundly important. Legal institutions that attempt to control corruption in the judiciary should be able to make a distinction between two types of guanxi: *quanli* guanxi and *qinyou* guanxi. As Su and Littlefield (2001) suggest, gift exchanges within *qinyou* guanxi networks ('kith and kin relationships emphasizing favour-seeking') are permissible by law, while gift exchanges within *quanli* guanxi networks ('power-dependence relationships emphasizing rent-seeking') should be strictly prohibited (p. 203). However, laws regulating this kind of corrupt exchange are absent or barely enforced, and in practice it is extremely difficult for

anti-corruption agencies to distinguish corrupt exchanges within *quanli* guanxi networks from gift giving within *qinyou* guanxi networks (Su and Littlefield 2001; Zhan 2012).

Regarding whether China's judicial system possesses the capability to protect China's courts from the demands of guanxi networks, a series of publications authored by Ling Li (2009, 2011, 2012) expose the evolution of corruption in China's court system. The Chinese Communist Party introduced an informal decision-making mechanism to China's courts when the party re-established the judicial system in the 1980s (Li 2009b). Courts were divided into civil, criminal, or commercial divisions, and 'each court division was mandated to complete the entire process from case registration, court hearing, panel adjudication, and issuance of verdict to enforcement of the judgement' (Li 2009: 206). Judicial corruption rose dramatically in that period because the greater the concentration of power in the hands of judges, the greater the corruption in the judiciary.

In the 1990s, the Supreme People's Court launched an institutional reform to transform the informal decisional mechanism into a formal and efficient decision-making system (Li 2012). The judicial reforms saw a complete restructuring of China's court system by dividing the system according to process: 'one division was charged with case admission and registration, another division with adjudication (further divided according to the nature of the case), and yet another division with enforcement' (Li 2012: 18). Meanwhile, a new separate division—adjudication supervision—was established to vindicate individual rights and 'give individual litigants a check on abusive judicial work' (Woo 1991: 108).

Under the reform, the corruption-facilitating functions of guanxi networks are weakened. A division of power means a private actor who attempts to obtain corrupt benefits has to engage in a number of corrupt exchanges with different judges who perform different functional judicial power, which results in a great increase in the transactional corruption costs (Li 2011). Moreover, the added number of corrupt transactions increases the risk of being detected by anti-corruption agencies. This means that litigants and other court users feel reluctant to develop corrupt guanxi when they realise that corruption has become so complicated, expensive and risky. As a result, a fairer justice system is achieved.

However, Li's (2012) latest research suggests a different story: 'all these newly established divisions are subject to the same decision-making mechanism, they are as susceptible to corruption as the antecedent institutions' (p. 18). China's judicial reforms fail to establish a formal and efficient decision-making mechanism in the court system and, what is even worse, institutional changes institutionalise corruption in the judiciary. According to Li (2012), a decision-making mechanism in judicial institutions generally proceeds as follows. After the case is registered, it is assigned to the appropriate adjudication division. The subordinates (frontline judges) collect information and pass it to their superiors (leader judges), then the superiors 'instruct their subordinates about their preferences for the outcome of the litigation concerned, with or without considering the information provided' (Li 2012: 24). The subordinates are obligated to implement instructions from their superiors. China's current court system is characterised by unconditional compliance and the lack of judicial reasoning, making subordinates unable to question the legitimacy of the

instruction. Moreover, the subordinates perceive the instructions from leader judges as a primary source of legitimacy for the formal court actions. Frontline judges are in a dilemma: although they are legally responsible for the legitimacy of their actions, 'effective implementation requires violation of procedural rules and/or misapplication of the law' (Li 2012: 10). Finally, the victorious plaintiffs can resort to the enforcement division if the defendants are unwilling to perform their obligations voluntarily.

Even though China's judicial reforms have empowered frontline judges, this does not reduce judicial corruption because leader judges (panel leaders) still monopolise the decision-making (Li 2012). The authoritarian political culture emphasising unconditional compliance is still prevalent in China's court system. As a result, frontline judges show greater loyalty to their superior's instruments than the law (Hiniker 1969; Xuan 2006). In this case, 'the law can be easily distorted by decision makers in the process of judicial decision making, [and] the law cannot effectively deter those who make these decisions from behaving corruptly' (Li 2012: 23). Under such circumstances, *guanxi* practice still retains its important role in corrupt exchanges between bribers and judges who possess the decision-making power, and, more importantly, corrupt judges tend to form a corrupt *guanxi* network—a self-defence mechanism—against potential dangers exposed by anti-corruption investigations (Li 2011). As a result of institutional restructuring, collusive corruption becomes more prevalent in the judiciary, the distribution of profits within the corrupt *guanxi* network becomes more secure, and the links between corruption and *guanxi* networks become even more close-knit.

Moreover, the judiciary in China fails to separate itself from a strong link with party leaders (Balme 2009). The court in China, as a work unit, is 'an institution that socially, politically, and culturally binds judges collectively to the CCP [Chinese Communist Party], the state, and the people' (Balme 2009: 156). The government influences or affects the judiciary in three main ways: first, courts are funded by the same level government (Fu and Peerenboom 2010; He 2009d); second, local judges are 'elected, appointed, and removed by local people's congresses' (Balme 2009: 162); third, a large majority of judges are members of the ruling party (Henderson 2009).

Although party leaders are not judges, they can ultimately decide their cases without court hearing. The Chinese Constitution (2004) demonstrates that party leaders have exclusive power to supervise the decision-making process in the court system. The court adjudicative committee, consisting of a small group of party leaders, is the highest decision-making body on adjudicative affairs in court (Balme 2009; Li 2012). Party leaders in the decision-making body of the court exercise their power mostly 'through giving instructions to their subordinates, including court leaders, in regular or ad hoc meetings or in private conversations with or without written decrees' (Li 2012: 8).

The establishment of this particular judicial decision-making mechanism in China's courts guarantees that the Chinese Communist Party is placed above the law, enabling the ruling party to 'process its political directives and specific demands in an institutionalized manner through the judicial system nationwide whenever necessary' (Li 2012: 25). As a consequence, in order to avoid punishment from party

leaders, a judge, to a large extent, works like 'a bureaucratic clerk' who obeys the orders and instructions of his superior rather than 'the voice of reason and law' (Zhang 2003: 83-84). This mechanism allows corrupt judges and political leaders to form a corrupt network in the Chinese judiciary.

To sum up, the coexistence of guanxi and the formal legal system produces few positive outcomes. This contradicts the popular perception that guanxi networks and the legal framework function as substitutes or complements. This section has emphasized the corrosive effects of guanxi network in Chinese society and analysed how guanxi practice undermines China's formal institutions. Despite the efforts of the Supreme People's Court to launch an institutional reform in the 1990s, judicial reforms failed to create a formal and effective Chinese judicial system. This encouraged economic actors either to rely on guanxi practice to influence local court decision-making, or rely on guanxi networks to resolve disputes and protect private property rather than resorting to the judiciary.

Moreover, the judicial decision-making mechanism is designed to enable the ruling party to maintain its above-the-law status. But the same mechanism also facilitates court users to bribe judges, or party leaders who exercise the decision-making power in the judiciary, by using guanxi practice. In addition, the evolution of judicial corruption is directly paralleled by institutional changes in the court system. The prevalence of collusive corruption or the corrupt network in the judiciary make judicial corruption more difficult to monitor, detect and expose.

4. Conclusion

This chapter presents a theoretical analysis of the coexistence of the legal system and the guanxi network in contemporary China. Consistent with the first hypothesis generated in chapter IV, this chapter argues that the embeddedness of judicial activities within guanxi networks makes China's legal system weak and unjust. The negative impact of guanxi on the formal legal system results in the rise of collective corruption within the public sector. As a result, Chinese people tend to either adopt guanxi practice to influence judicial decision-making or rely on guanxi practice or extra-legal protectors (e.g. criminal groups) to protect their rights and enforce transactions rather than resort to courts.

However, even the most thorough review of the existing literature on the coexistence of the two systems of order cannot reveal the extent to which guanxi distorts the formal legal system. It is also difficult to ascertain whether it is correct to argue that guanxi in the reform era has been transformed from a substitutive and complementary institution to an informal institution that encourages private individuals and government officials to achieve their goals regardless of the arm's length principle and the rule of law. In order to explore whether the theory of the dark side of guanxi works in practice, the fieldwork and the analysis of the empirical findings are necessary steps.

Chapter VI The Red Mafia in China: organized crime, guanxi and police corruption in Chongqing

Drawing on empirical evidence from Chongqing, this chapter aims to test the first and second hypotheses generated in chapter IV. The first hypothesis predicts that the embeddedness of police and judicial activities in guanxi networks makes state-sponsored law enforcement agencies weak and inefficient. The second hypothesis predicts that guanxi networks facilitate corrupt transactions within and between public and private sectors, resulting in collective corruption within political establishments and the rise of state-illegal protectors—the Red Mafia. Evidence from the Chongqing crime crackdown not only provides a good opportunity to examine the corruption-facilitating and corruption-masking roles of guanxi, but also offers a vivid picture about what the Red Mafia is and how corrupt and dysfunctional local government has become.

The mafia, as Gambetta (1993) demonstrates, is a special type of organized crime group that specializes in producing, selling and distributing private protection. Varese makes a clear distinction between an organized crime group which ‘attempts to regulate and control the production and distribution of a given commodity or service unlawfully’ and a mafia group which ‘is a type of organized crime group that attempts to control the supply of protection’ (Varese 2010a: 14, 17). In addition to the mafia, which derives its income mainly from the supply of illegal protection, a series of campaigns against organized crime and corruption in mainland China,

especially the Chongqing crime crackdown, suggests that a special type of group, the Red Mafia is heavily involved in the business of extra-legal protection (Businessman E 2012).³²

The author has argued elsewhere (Wang 2013b) that the ‘Red Mafia’ is a collective term that can be used to refer to the dominant protection supplier in the criminal underworld: corrupt law enforcers. The concept of ‘Red Mafia’ shares the identical meaning with the Chinese term ‘protective umbrella’, which refers to corrupt government officials—mainly from the criminal justice system—who use their power to safeguard organized crime groups and receive payment in money, sex and promotion (also see: Chin and Godson 2006; Zhang and Chin 2008).

The emergence of the Red Mafia shows the tendency of rising corruption in China. In 2013, Chinese president Xi Jinping ‘vowed to tackle corruption, warning that it threatens the Communist Party's grip on power’ (Patience 2013: online). Abuse of power has become a serious threat to the Chinese one-party state. Wedeman (2012a) demonstrates that ‘as reform deepened, the modal form of corruption shifted from predatory plunder and primarily petty corruption to various forms of transactive corruption wherein corrupt officials “sold” favors to economic interests seeking profit-making opportunities’. As Wedeman further explains, there are two type of transactive corruption: first, positive-sum or mutually-beneficial exchanges between corrupt officials and private actors; and second, a negative-sum exchange wherein a private actor is forced to bribe the corrupt official to avoid unwanted

³² *Qiu Geping*, 11 January 2012, interview, Shanghai, People’s Republic of China; *Jin Qigao*, 10 January 2012, interview, Shanghai, People’s Republic of China; *Qiu*, personal communication, e-mail message to author, 22 August, 27 August, and 28 August 2011.

official action. Drawing on Gambetta's (1993) and Varese's (2001) studies of mafias, it is clearer to say that the commodity in mutually-beneficial exchanges sold by officials is 'protection', while the commodity in negative-sum exchanges is 'extortion'. Moreover, transactive corruption suggested by Wedeman (2012a) neglects one significant component: corrupt exchanges among public officials that also include both positive- and negative-sum exchanges.

In contrast with the narrow definition of 'Red Mafia', which exclusively refers to law enforcers who are involved in the supply of protection in the criminal underworld, this thesis adopts a broader definition. 'Red' is the symbolic colour of the Chinese Communist Party, which controls the legislative, executive and judiciary branches. In this case, 'red' in its broader sense covers public officials from all government agencies.

In this thesis, the 'protection' supplied by the Red Mafia extends to corrupt benefits distributed through *guanxi* networks. That is to say, 'Red Mafioso' refers to public officials (from any government agencies) who are involved in at least one of the following activities: (1) selling unlawful protection or transacting illicit benefits within the public sector (e.g. selling public appointments and sheltering other officials' corrupt transactions); (2) creating mutually beneficial networks with legitimate private actors, such as engaging in rent-seeking activities; (3) distributing corrupt benefits to or supplying protection to illegal private actors; this might include safeguarding criminal groups and illicit entrepreneurs, enabling them to escape punishment, and wiping clean their criminal records.

It has been widely acknowledged that the study of *guanxi* and corruption suffers from a lack of comprehensive statistical information because police records and court files about corruption cases are not available to the public in China (Guo 2008). Corruption cases revealed by the Chongqing crime crackdown seem different because part of the information about organized crime and corruption has been disclosed by the mass media. The Chongqing crime crackdown demonstrates the corruption-facilitating role of *guanxi*. To be specific, the principle of reciprocity and the importance of maintaining face (*mianzi*³³) in the *guanxi* network encourage high-ranking government officials to distribute promotions and opportunities to those close to them in the network, facilitating the rise of illegal job markets (e.g. the buying and selling of public offices). Middle- and lower-level government officials also obtain illegal benefits through *guanxi* practice. For example, the *guanxi* network provides a safe and efficient channel for both mid- and low-level police officers and locally-based criminals to create mutually beneficial networks.

The remainder of this chapter is structured as follows: section 1 offers a general description of the crime crackdown campaign in Chongqing. Section 2 focuses on *guanxi* and the buying and selling of public offices in Chongqing, and explores how relational power stemming from *guanxi* networks determines the way in which promotions and opportunities are distributed. Section 3 focuses on the relationship between organized crime, *guanxi* and police corruption by discussing the most widely-publicized case uncovered by the Chongqing crime crackdown: the Wen

³³ The term 'face' refers to 'the positive social value a person effectively claims for himself by the line others assume he has taken during a particular contact'. Please see: Erving Goffman, 'On Face-Work: An Analysis of Ritual Elements in Social Interaction', *Psychiatry: Journal for the Study of Interpersonal Processes*, 1/8 (1955), 213-31 at 213.

Qiang case. It suggests a typology of organized crime in Chongqing, examines how organized crime groups adopt a three-stage guanxi building (i.e. initiating, building, and using) to develop mutually beneficial networks with police officers, and explains why police protection becomes necessary for locally-based criminal groups. Section 4 concludes that government authority has become a tradable commodity in mainland China where the government fails to control rampant public sector corruption. Guanxi allows government officials to conduct corrupt transactions with 'insiders' (other officials) and 'outsiders' (private actors) to obtain private gain. What is worse, it encourages and even forces honest public officials to break the rule of law and supply unlawful benefits to those close to them in the guanxi network because a violation of the principle of guanxi will cause serious negative repercussions on the reputation of the violator.

1. The Chongqing crime crackdown: a general description

Chongqing is a major city in Southwest China and one of China's four directly-controlled municipalities (the other three are Beijing, Shanghai and Tianjin). Like much of the rest of China, Chongqing's wealth has grown suddenly and dramatically. The increase in wealth has also prompted the return of gangs (Moore 2009). One point emphasised by most interviewees and a few news reports is that 'Chongqing is far from alone in suffering from organized crime, but has gone further than most cities in tackling it' (Watts 2009: online). Provinces in mainland China, like Yunnan and Guangxi, are suffering from more serious organized crime than Chongqing, but these municipal governments lack the capability of cracking down on these serious organized crime groups (FGD A 2011; Lawyer A 2011; Journalist A 2011; Journalist D 2011).

The man behind Chongqing's latest strike black campaign was its party chief, Bo Xilai. Austin Ramzy characterised Bo as 'an ambitious outsider whose lack of local ties had given him a free hand to pursue his clean-up campaign' (Ramzy 2010b: online). Without Bo's considerable political confidence³⁴, it would have been extremely difficult for the Chongqing Municipal Government to launch the war on organized crime.

According to interview data and reports in state-controlled newspapers, such as *China Daily*, organized criminal groups in Chongqing were involved in a wide variety of businesses, from the traditional areas of gambling, prostitution, debt collection, protection, and drug dealing, to the legitimate businesses of the wholesale seafood trade, private bus networks, and nightclubs (Economist 2009; Moore 2009). The sums of money involved were huge. To take just one example, loan sharking: *China Daily* estimated that 'the money lent by gangs at exorbitant interest rates [in 2008] crossed 20 billion RMB (\$4.4 billion) or a third of the city's fiscal income' (Bolin He 2009c: online).

The biggest crackdown on Chongqing's gangsters and their colluding officials aroused particular attention because 'it was directed, unusually, at the kind of people who count: the wealthy businessmen and powerful officials who controlled the gangs and enabled them to flourish' (Economist 2009: online). From June 2009,

³⁴ Bo Xilai was a member of the Politburo of the Communist Party of China. He made no secret of his desire to enter the Politburo Standing Committee but was expelled from the Chinese Communist Party in September 2012 for corruption and the abuse of power. For more details, please see: Jamie A. FlorCruz (2012), 'The rise and fall of China's Bo Xilai', <<http://www.cnn.com/2012/03/16/world/asia/florcruz-xilai-china/index.html>>, accessed 20 March 2012.

when Chongqing's crime crackdown campaign began, to March 2010, a total of 3348 suspects were arrested. More than 50 public officials were arrested for allegedly acting as protective umbrellas for local organized criminal groups. Fourteen of these were former high-ranking officials including Wen Qiang, Chongqing's former director of the municipality's justice bureau and deputy police chief, and Peng Changjian, deputy chief of the Chongqing Public Security Bureau (Huang 2010).

Chongqing's massive crackdown shows that the buying and selling of offices is widespread in China. It also illustrates that the collusion between organized crime groups and public sector officials has become a serious problem threatening the legitimacy of the Chinese Communist Party. The protection offered by the Red Mafia is the most important factor for the resurgence of organized crime groups. A thorough analysis of the most famous corruption case uncovered by the Chongqing crime crackdown—the Wen Qiang case—offers a clear picture about how *guanxi* distorts China's legal system and how it enables locally-based criminal groups to create corrupt networks with local police officers.

2. Guanxi and corruption: the buying and selling of public offices in Chongqing

In China, the promotion of government officials has been largely influenced by unwritten rules, particularly the practice of *guanxi* (Warren et al. 2004). This phenomenon is mainly caused by the weak political and legal system which fails to clearly specify criteria for the distribution of public offices and to strictly enforce those criteria. The principle of reciprocity and the essence of maintaining face in *guanxi* practice, as Zhan (2012: 103) demonstrates, 'encourages local officials to

distribute promotions and opportunities to those closer to them in the network'. Moreover, the importance of *guanxi* forces individuals (lesser cadres and ordinary citizens) to cultivate relationships with those in power.

In departure from most crime crackdown campaigns conducted by local governments, the Chongqing crime crackdown resulted in the end of numerous corrupt networks, especially within law enforcement agencies, and the reshuffle of at least 3,000 police officers in order to cut their links with organized crime groups (Wang and Ma 2010). The most influential network destroyed by this crime crackdown was within the Chongqing Public Security Bureau headed by Wen Qiang, who served as the deputy head of the Chongqing Public Security Bureau from 1992 to 2008 and as director of the Chongqing Justice Bureau from July 2008 to August 2009.

Wen Qiang was described by most interviewees as a trustworthy person (Journalist A 2011; Journalist D 2011). He regarded 'the rule of *ganqing*' in *guanxi* practice as being much more important than the rule of law (Prosecutor A 2011; Prosecutor B 2011). As Journalist A (2012) says:

'Wen Qiang was born in Banan District, Chongqing. Chongqing has long been a water transportation hub on the upper reaches of the Yangtze River. The dock culture [sworn brotherhood culture] is one of the most distinctive cultures in Chongqing. Influenced by traditional Chongqing culture, Wen became obsessed with *mianzi* [face] and *yiqi* [righteousness]. Middle or lower levels of police officers who were familiar with Wen always called him "Qiang Ge" (Elder

Brother Qiang). Wen had great desire to main his mianzi/prestige. As a result, he often made decisions based on codes of brotherhood rather the rule of law’.

From Wen’s perspective, the provision of assistance for promotions of middle and lower level officers within his guanxi networks was normal and even necessary, but transactions between Wen and his subordinates were clearly defined as corruption from a legal perspective. Unlike the legal market, in which the price determines transactions between sellers and buyers, transactions in the market of buying and selling offices were determined by interpersonal relationships between the holders and receivers of the benefits (Schramm and Taube 2003a; Zhan 2012). In other words, Wen may feel obliged to favour the people in his network rather than outsiders, to favour those closer to him over the others farther away in his network.

In order to secure promotions or gain better job opportunities, many middle and lower level police officers in Chongqing had to invest in establishing and maintaining a close relationship with Wen. Moreover, people who were not members of Wen’s guanxi network tended to employ a middleman—a linking person who brings a buyer and seller from different networks together—to facilitate corrupt transactions (Zhao et al. 2011). Wen Qiang, as the main supplier of offices, was convicted of providing assistance for more than 20 police officers to gain promotion and police candidates to secure places (See Table 1).

Table 1 Offices for Sale in Chongqing³⁵

<i>Objective of Buying Offices</i>	<i>Office Buyer³⁶</i>	<i>Middleman</i>	<i>Office Seller</i>	<i>Amount of Money Transacted</i>
Same-level transfer to a better job	Wu XX	Chen Wanqing	Wen Qiang	¥1,190,000
Secure a place in the Chongqing Public Security Bureau	Geng XX	Chen Wulin	Wen Qiang	¥150,000
Promotion	Luo Li	N/A ³⁷	Wen Qiang	¥400,000
Promotion	Ran Congjian	Chen Wanqing	Wen Qiang	¥500,000
Same-level transfer to a better job or secure a position for demobilized military officer	Zhang XX Chen XX Yuan XX	Zhou Hongmei	Wen Qiang	¥1,590,000
Promotion	Xie Gang	N/A	Wen Qiang	¥126,000
Promotion & maintaining positions	Zhao Liming	N/A	Wen Qiang	¥270,000
Promotion	Li XX	N/A	Wen Qiang	¥49,000
Same-level transfer to a better job	X XX	Zhou Hongwei	Wen Qiang	¥1,770,000
Promotion	Huang Daiqiang	N/A	Wen Qiang	¥95,000
Promotion & same-level transfer to a better job	Wang Daoshou	N/A	Wen Qiang	¥155,000
Promotion	Chen Tao	N/A	Wen Qiang	¥60,000
Promotion & same-level transfer to a better job	Xu Qiang	N/A	Wen Qiang	¥370,000
Same-level transfer to a better job	Chen XX	N/A	Wen Qiang	¥30,000
Promotion	Zhou XX	Du Guangde	Wen Qiang	¥200,000

³⁵ This table is designed by the author according to information from news reports released by Xinhua News Agency, the official press agency of the People's Republic of China.

³⁶ The Chongqing government has not disclosed all the names of 'office buyers', so this paper uses 'XX' to fill in the missing parts.

³⁷ 'N/A' due to lack of public information

In the Chongqing case, relational power stemming from *guanxi* networks enables Wen's subordinates to obtain promotions. As Shang et al. (2012) argue, relational power can be divided into two subcategories: direct and indirect. Direct relational power can be further divided into *ganqing* (affection) based relational power and *renqing* (felt-obligation) based relational power.

In an affection-based relationship, 'the leader and his/her follower socialize outside work, discuss personal problems and exchange advice on personal issues' (Jiang et al. 2012; Shang et al. 2012: 440). For example, Huang Daiqiang, Zhao Liming and Chen Tao, three middle-ranking police officers, were Wen's 'personal bodyguards' when Wen enjoyed himself in nightclubs. This provided excellent opportunities for these police officers to share their personal problems and issues with their leader. Affection-based relationships therefore encouraged Wen to distribute corrupt benefits (e.g. promotion opportunities) to his loyal followers (Xinhua 2010e).

Chen and Chen (2004a: 316) argue that socially-expressive activities, such as celebration parties for marriages, birthdays and promotions, have a great impact on 'affective trust and *ganqing*'. This is because celebrations provide good opportunities for lower-ranking officials to express their good wishes and greetings to their leaders. The Wen Qiang case shows that the Spring Festival (the Chinese New Year), Mid-Autumn Festival, birthdays and occasions when Wen went abroad on official business provided excellent gift-giving opportunities for low- and mid-level police officers and local businesses to send '*Hongbao*'—red envelopes containing money or shopping cards—to Wen Qiang (Keyuan 2000; L. Li 2012). As Bracey (1992) states, gifts are converted into reciprocity, making the recipient indebted to the giver. The

only thing that Wen had to give in return was misuse of power or authority, which was also the only thing in which these bribers were interested.

Obligation-based relational power is generated from the exchange of emotional feelings (e.g. work-related problems and issues) between the leader and his or her subordinates (Shang et al. 2012). Social and economic transactions create a sense of indebtedness, resulting in a felt-obligation-based relationship between two parties (Vanhonacker 2004). For example, Peng Changjian and Wen Qiang, two police chiefs, developed a very close working relationship because they had worked together for many years. It would have been difficult for Wen to establish himself as an anti-crime hero without the assistance of Peng. In September 2000, with Peng's significant contribution, Wen successfully destroyed the Zhang Jun criminal syndicate and made himself China's most reputable police officer (Ifeng 2010; Lu 2010). Wen rewarded Peng by promoting him from lowly officer all the way to police chief.

In practice, it is extremely difficult to distinguish *ganqing*-based relationships from *renqing*-based relationships. In most corruption cases, these two types of relationship are simply mixed together. As Jiang et al. (2012: 209) argues:

'Guanxi based on kinship usually starts from *ganqing* while other kinds of guanxi typically start from *renqing*. However, as time passes, both kinds of guanxi contain both *ganqing* and *renqing* components. The only distinction is the proportions of *ganqing* and *renqing* in guanxi. For example, business guanxi usually has less *ganqing* elements than other guanxi.'

Indirect relational power, also called network-based relational power, facilitates people who did not possess a direct *guanxi* relationship with Wen to receive corrupt benefits in Wen's *guanxi* networks. As Shang et al. (2012) argue, this type of relational power is based on *mianzi* (face). A middleman (A) possesses the ability not only to bring the provider (B) and seeker (C) of corrupt benefits together, but also to make B feel obligated to C. The relationship between A and B indirectly affects the outcome of the request made by C.

As Table 1 shows, Chen Wanqing was frequently invited to act as middleman when the help seeker was not a member of Wen Qiang's *guanxi* networks. Chen was a billionaire in Chongqing. Since 2000, Chen had created and maintained good *guanxi* with Wen through continuous gift-giving on three types of occasion: special celebrations (e.g. birthdays), traditional Chinese festivals (e.g. Spring Festival) and returning from a long distance trip (Li 2010). Norms of reciprocity in *guanxi* networks made Wen reluctant to say 'no' to Chen's requests. If a favour request was not granted as expected, *guanxi* quality would be negatively affected and Wen's reputation in *guanxi* networks would be seriously damaged. As a result, people who did not possess *guanxi* with Wen tended to find a middleman to gain job transfers within the Chongqing police system.

The buying and selling of public offices in Chongqing illustrates the importance of relational power in the distribution of government appointments. *Guanxi* in contemporary China exerts corrosive effects on the legal system. The Chongqing crime crackdown was followed by the reshuffle of mid- and high-ranking police

officers in order to break corrupt guanxi networks within the police system and cut mutually-beneficial links between police officials and criminals (Liu and Li 2010).

3. The political-criminal nexus: organized crime, guanxi and police corruption in Chongqing











The establishment of a close guanxi with high-ranking officials not only enables low- and mid-level police officers to gain promotions or transfers, but also safeguards their businesses with criminals. Unlike corrupt high-ranking government officials who make large amounts of money by selling government appointments or associating with legitimate businessmen, middle or lower-level police officers who want to earn such benefits have to associate with locally-based criminals or illegal entrepreneurs who are also eager to establish close guanxi networks with law enforcers (Chin and Godson 2006). Moreover, middle or lower-level police officers are willing to create friendly guanxi networks with illicit entrepreneurs who have close interpersonal connections with senior police officers. As a police officer argues:

‘If a gang boss is a good friend of a police chief, lower level police officers would want to cultivate guanxi with this gang boss by providing internal information and business opportunities. This is an efficient way to get involved in the guanxi network led by senior officials, creating good opportunities to gain promotions’ (FGD A 2011).

According to Antonopoulos (2013), the corrupt network between the criminal underworld and the political establishment can be created either through clientelistic relationships or bribery in the form of money, expensive gifts and/or services, and sex services, or through interpersonal, family guanxi links. Both

fieldwork data and extensive published materials suggest that police officers in Wen Qiang's corrupt guanxi network were largely involved in offering protection for locally-based criminal groups.

Table 2: The most influential political-criminal nexus in Chongqing headed by Wen Qiang³⁸

<p>Wen Qiang:</p> <p>He served as the deputy head of the Chongqing Public Security Bureau from 1992 to 2008 and as director of the Chongqing Justice Bureau from July 2008 to August 2009.</p>			<p>Wen was found guilty of:</p> <ul style="list-style-type: none"> • Taking more than 12 million RMB in bribes to facilitate more than 20 officers to gain promotions or transfers; to help businessmen obtain illegal profits; and to provide protection to locally-based organized crime groups. Of these bribes, 756,500 RMB came from gang members. • Failing to explain the source of assets worth 10.44 million RMB. • Raping a university student in August 2007.
<p>Wen's right-hand man</p>			
<p>Peng Changjian:</p> <p>Peng served as former deputy chief of the Chongqing Public Security Bureau, was reportedly a close ally of Wen Qiang.</p>			<p>Peng was found guilty of:</p> <ul style="list-style-type: none"> • Taking 4.71 million RMB in bribes from 1998 to 2009, of which over 1.4 million RMB was offered by three gang bosses, Wang Xiaojun, Ma Dang, and Yue Ning. • Failing to explain the source of assets worth 4.67 million RMB.
<p>Six 'heavenly guardians' of Wen's black empire</p>			
<p>Huang Daiqiang: Former deputy head of Chongqing's criminal investigation division (2003-2009). Bribed Wen with 90,000 RMB and an Omega watch between 2004 and 2008.</p>	<p>Luo Li: Deputy head of the city's drug control department (2005-2008). Bribed Wen with 400,000 RMB between 2005 and 2008.</p>	<p>Zhao Liming: Deputy head of the city's public transport security police division (2000-2009). Bribed Wen with 270,000 RMB between 2000 and 2008.</p>	<p>Chen Tao: Deputy head of the city's public security police division (2007-2009). Bribed Wen with 60,000 RMB between 2004 and 2008.</p>
		<p>Xu Qiang: Director of the Dianjiang County Public Security Bureau in Chongqing (2007-2009). Bribed Wen with 370,000 RMB between 2004 and 2008.</p>	<p>Su Tao: Deputy head of Jiangbei district sub-bureau of the Chongqing Public Security Bureau (2006-2009). Bribed Wen to obtain promotion. The specific information of Su's bribery is not in the public domain.</p>
<p>Eight locally-based criminal organizations which controlled Chongqing's illegal markets</p>			
 <p>Wang Tianlun's Gang Businesses: Monopolizing the hog slaughtering and pork markets through threats and violence. Length of activity: 13 years Size: 23 members Active since: 1996</p>	 <p>Xie Caiping's Gang Business: Gambling Length of activity: 5 years Size: 22 members Active since: 2004</p>	 <p>Chen Mingliang's Gang Businesses: Prostitution, dispute resolution, gambling, and drug trafficking. Length of activity: 8 years Size: 34 members Active since: 2001</p>	 <p>Ao Xingman's Gang Businesses: Drug production and trafficking, and illegal sale of firearms. Length of activity: 13 years Size: 46 members Active since: 1996</p>
 <p>Wang Xiaojun's Gang Businesses: Gambling and prostitution. Length of activity: 8 years Size: 24 members Active since: 2001</p>	 <p>Wang Sisters' Gang (Wang Ziqi and Wang Wanning's Gang) Business: Prostitution. Length of activity: 15 years Size: over 20 members Active since: 1994</p>	 <p>Yue Ning's Gang Business: Prostitution. Length of activity: 11 years Size: 31 members Active since: 1998</p>	 <p>Fan Qihang and Gong Gangmo's Gang Businesses: Loan sharking, drug trafficking, and gambling. Length of activity: 3 years Size: 34 members Active since: 2006</p>

³⁸ This table is designed by the author. All the pictures and information in this table are from relevant news reports released by Xinhua News Agency from June 2009 to February 2012.

As Table 2 shows, Wen Qiang's black empire consisted of three tiers. Wen, the 'godfather' of Chongqing's criminal underworld, and his right-hand man, Peng Changjian, former deputy chief of the Chongqing Public Security Bureau, sat on the top; the middle level consisted of Wen's six 'heavenly guardians', who were mid-level police officers in Chongqing; and on the bottom were eight organizations with an underworld nature, which controlled the illegal businesses of drugs, gambling, prostitution in Chongqing.

Through a discussion of the Wen Qiang case, this section firstly develops a typology of organized crime in Chongqing, then analyses how locally-based criminals adopted the 'debt logic' of guanxi practice to establish mutually-beneficial networks with police officers. Finally, it interprets why the protection offered by police officers became necessary for organized crime groups in China.

a. The criminal underworld in Chongqing: a typology of organized crime

The most powerful protective umbrella in Chongqing was created by Wen Qiang and his subordinates. Under this umbrella, eight organizations with an underworld nature emerged to control the production and distribution of unlawful commodities and services. Rather than going into excessive detail about organizational structure and criminal businesses, this chapter offers a diagram summarising key information on eight notorious criminal organizations and interprets these organizations' structure and activities.

Table 3 Summary information on the eight organizations with an underworld nature that were under Wen's protective umbrella

Name of gang		Length of activity in years	Start date	Size	Criminal businesses	Main protector
1.	Wang Tianlun's Gang	13	1996	23	Monopolisation of the hog slaughtering and pork markets	Wen Qiang and Huang Daiqiang
2.	Xie Caiping's Gang	5	2004	22	Gambling	Wen Qiang, Peng Changjian and Zhao Liming
3.	Chen Mingliang's Gang	8	2001	34	Prostitution, dispute resolution, gambling and drug trafficking	Wen Qiang, Luo li and Peng Changjian
4.	Ao Xingman's Gang	13	1996	46	Drug production and trafficking, and illegal sale of firearms	Luo Li
5.	Wang Xiaojun's Gang	8	2001	24	Prostitution and gambling	Wen Qiang, Peng Changjian Su Tao and Li Hanbing
6.	Wang Ziqi and Wang Wanning's Gang (or Wang Sisters' Gang)	15	1994	Over 20	Prostitution	Chen Tao
7.	Yue Ning's Gang	11	1998	31	Prostitution	Wen Qiang, Peng Changjian and Chen Tao
8.	Fan Qihang and Gong Gangmo's Gang	3	2006	34	Loan sharking, drug trafficking and gambling	Wen Qiang, Luo Dingjiang, Chen Tao and Yang Zhi

i. Structure

Regarding organizational formations of organized crime in China, Xia (2008) suggests that 'the choice of appropriate organizational form by organized criminal groups is not simple and pure. The organized criminal groups have chosen organizational

formations ranging from hierarchic (bureaucratic) structures to market mechanisms and to networks' (p. 22). This part analyses the structure of the eight organized crime groups under Wen's umbrella and focuses on three of the most fundamental features: 'hierarchy', 'hermit-crab'-type hybrids³⁹ and 'networks'.

Hierarchy

Similar to traditional secret societies in ancient China, a hierarchical structure has been adopted by many organized crime groups in contemporary China (Chen 2005; Xia 2008). In response to this phenomenon, the majority of scholars and practitioners tend to regard a pyramid-type hierarchy as the dominant form of criminal organization.

In Chongqing, the emergence of locally-based criminal groups was largely influenced by the ancient culture of sworn brotherhoods. Moreover, hierarchical organizations seemed a superior form for many criminal groups, especially those that mainly engaged in locally based criminal activities such as organising prostitution, running gambling dens, and involving in loan-sharking.

For example, Chen Mingliang's gang was regarded as the biggest criminal syndicate in Chongqing's underworld (TimeWeekly 2009; Yi 2010). In common with the typical pyramid structure, there were a variety of ranks and positions within the syndicate. Chen Mingliang was the 'dragonhead'. Lei Deming, an influential underworld figure, was a 'military commander' overseeing defensive and offensive operations. Ma Dang

³⁹ The term "hermit-crab-type hybrids" was first used by Professor Ming Xia in his 2008 paper titled 'Organizational formations of organized crime in China: perspectives from the state, markets, and networks'. It refers to criminal groups that 'take over the shells of legitimate hierarchies' (p 14).

was a financial officer and head of public relations for Chen's group, taking charge of developing relationships with government officials. Key members actively participated in Chen's legal and illegal businesses. The lowest rank consisted of dozens of rank-and-file gang members who carried out routine tasks (Xinhua 2010h).

'Hermit-crab'-type hybrids

The existing literature shows that over half the criminal syndicates that were destroyed in Chongqing's latest strike black campaign had legitimate covers. Xia suggests that the primary aim of creating a business front is 'not only [creating] a safe place for the dirty money, but also [providing] a safe haven for criminals through a legitimate gathering site, organizational structure and coherence, and seemingly legal employment' (Xia 2008: 14). Regarding the intermingling of organized crime and public officials, Ko-lin Chin argues that 'the line between legitimate business and illegal conduct had become increasingly blurred' (Jacobs 2009: online). Similarly, Wang Li, a law professor in Chongqing, points out that Chongqing's gangs, like gangs elsewhere in China, are organized around businesses rather than families. He further argues that:

The gangs engaged in the traditional businesses of gambling, prostitution and drug dealing [in the first few years]. But then they set up companies...many of the larger gangs are contained inside legitimate business, with the godfathers also performing the role of chief executive. Inside the business, a small proportion of gangsters were hired in each department, charged with collecting debts and protection fees. The rest of the employees conduct normal business (Moore 2009: online).

Most of the gangland bosses under Wen's protective umbrella had legitimate covers such as nightclub owners, construction entrepreneurs, motorbike moguls and real estate agents. Some of them were even influential millionaires or billionaires. In addition, a business front also enabled gang bosses to create connections with government officials. For example, Gong Gangmo, a gang boss in Chongqing, bribed former police chief Wen Qiang. Wen admitted in a court hearing that he accepted Gong's bribes, but he emphasised that he did nothing for the gang as he thought Gong was a legal businessman, and he was unclear why Gong offered money to him.

Networks

Carlo Morselli defines a network as 'a self-organizing structure that is driven by the emergent behaviour of its parts' (Morselli 2009: 14). A criminal organization that adopts the criminal network form is able to 'capture "a flexible order", structural arrangements that are lighter on their feet than "slow moving" hierarchies and quick to adjust to changing situations and opportunities' (Varese 2010a: 8). The use of networks theory for the study of organized crime has not been widely accepted by most scholars and practitioners in mainland China because they perceive the hierarchical organization (i.e. pyramid structure) as a superior organizational form. However, based on an enormous number of cases of organized crime exposed during China's anti-crime 'strike hard' campaigns, Xia writes that many hierarchical criminal syndicates evolved into networked forms of organizations to seize the criminal opportunities generated within networks (Xia 2008).

Ao Xingman's gang was the largest drug production and trafficking organization in Chongqing. The organizational framework created by Ao and his confederates was a

powerful criminal network combining the features of two forms, a ‘cobweb’ and a production and distribution chain⁴⁰. Under the ‘cobweb’ structure, Ao occupied the centre of the networks. Two other gang bosses, Tan Liren and Li Xiang, ex-members of Ao’s gang, developed their own drug production and trafficking organizations (Tian 2012). Tan’s gang and Li’s gang seemed like second-tier groups and acknowledged the hegemony of Ao Xingman in criminal networks, even though they were loosely connected. Each gang engaged in illegal activities independently and cooperated with each other only when necessary.

Moreover, Ao Xingman succeeded in forming a chain-like structure by linking up supply, demand, and protection lines. The chain began in Burma, from where drugs were smuggled by Ao’s gangsters through Yunnan Province to the city of Chongqing. The distribution chain consisted of street gangs as well as 14 notorious criminal groups in Chongqing. The final link in the chain involved distribution in provinces such as Guangdong, Guangxi, and Yunnan. In order to secure his production and distribution chain, Ao also developed a tight relationship with his protector Luo Li, former deputy chief of the anti-drug brigade of the Chongqing Municipal Public Security Bureau (Xinhua 2011a, 2012a).

ii. Activities

Two key words, ‘monopoly’ and ‘the provision of illegal goods and services’, describe the activities of criminal organizations under Wen’s protective umbrella.

Monopoly

⁴⁰ Xia (2008) offers more detail about ‘a cobweb’ and ‘a production and distribution chain’.

The Chongqing crime crackdown illustrates that corrupt government officials, especially police officers, were the only suppliers of a particular commodity (i.e. protection) in Chongqing's criminal underworld. The monopoly of extra-legal protection businesses by corrupt police officers provided a safe environment for gangsters who had connections with these officers to engage in criminal activities and illegal businesses.

For example, Ao Xingman and two smaller players, Tan Liren and Li Xiang, dominated Chongqing's illegal drug market with up to an 80% share (Xinhua 2012a). Ao was able to gain such an extraordinary market share thanks to the protection offered by a senior police officer, Luo Li. Luo arrested other drug traffickers, forcing Ao's competitors out of the market so Ao could expand his market share (Tian 2012). Wang Tianlun, a billionaire and notorious gang boss, managed to gain a 41% share of the hog slaughtering and pork markets through threats and violence. Wang's gangsters forced pig farmers to send their pigs to Wang's slaughtering company, and compelled customers to purchase water-injected meat (Yi 2010).

The provision of illegal goods and services

Prostitution is a booming industry in contemporary China. Four out of the eight criminal groups were involved in the prostitution business. Chen Mingliang and Wang Xiaojun, two gangland bosses, organized hundreds of women to engage in the sex trade (Xinhua 2010h, 2010g). Wang and his partners also opened a male prostitution den named '*Luren Gangwan*' (literally, "Traveller's Harbour") in a hotel in central Chongqing (Xinhua 2010g).

Wang Ziqi was regarded as the ‘godmother’ of prostitution in Chongqing. Ms Wang and her sister Wang Wanning ran a brothel named ‘Bright Spot Teahouse’ in Chongqing between 1994 and 2009 (Moore 2011). *Xinhua News Agency* disclosed that at least 300 women had been victims of the Wang sisters’ gang. Some victims died or went mad (Xinhua 2011d). The mass production of cheap sex was mainly supplied for customers who were not willing or able to spend large amounts of money. By contrast, Yue Ning, a famous figure in Chongqing’s entertainment industry, ran two of the most lavish nightclubs and earned a huge amount of money from the business of high-end prostitution (Yi 2010; Yu 2010b).

Gambling is another lucrative business. Four criminal syndicates under Wen’s umbrella were involved in running gambling houses. Xie Caiping operated more than 30 gambling dens, including one just across the street from a courthouse (FlorCruz 2009; Ramzy 2010a; Tran 2009; Xinhua 2009c). Xia Ping, under the protection of Xie Caiping, opened a casino in central Chongqing in 2004 and recruited over thirty members (Xinhua 2010f). In addition, Fan Qihang and Gong Gangmo’s gang also operated gambling dens, which contributed over one million RMB to their profits (Feng 2010).

Moreover, these gangs also engaged in online gambling and succeeded in expanding their illegal commercial services in Southeast Asia. For example, Wang Xiaojun’s gang obtained 170 million RMB through engaging in organising online gambling between 2001 and 2009. Wang’s group also opened four gambling houses in Chongqing in 2003 and expanded its gambling activities to Macau in 2008 (Ma and Wang 2010; F. Yi 2010). Another gang boss who ran an international gambling ring was Chen

Mingliang. Cooperating with gambling casinos in Macau, Chen's gang controlled the 'bate-ficha' business⁴¹ in Chongqing, and took dozens of businessmen (who had to buy chips from Chen) on illegal gambling tours to Macau (Xinhua 2010h).

Dispute resolution became a popular business which also brought huge profits to organized crime groups. Prized for its violent reputation, Chen Mingliang's gang was frequently invited to resolve disputes among private business owners, becoming a well-known quasi-governmental organization (TimeWeekly 2009; Yi 2010). For instance, the dispute over He Lunjiang's alleged 97 million RMB gambling debt was settled after lengthy talks between Chen's follower Lei Deming and gang boss Wang Xingqiang. Due to Chen's outstanding reputation, Wang agreed to reduce the debt to only 20 million RMB. In return, Chen's group levied a service charge of 15 million RMB (TimeWeekly 2009).

Drug production and trafficking in Chongqing were monopolised by three gangs led by gangland boss Ao Xingman. At least 14 criminal organizations were involved in selling and distributing illegal drugs on the streets and in their entertainment clubs. For instance, Fan and Gong's gang engaged in illegally selling 10 kg of methamphetamine (Feng 2010). Yue Ning and Xie Caiping, two gang bosses, provided illegal drugs for their gangsters and customers in their gambling houses and nightclubs (TimeWeekly 2009).

⁴¹ The term 'bate-ficha', suggested by Angela Veng Mei Leong, means 'to handle chips, and lots of chips indicate power and profit. So the bate-ficha business simply means the rolling or exchanging of chips between the customers (gamblers) and the bate-ficha guys (dapma-chai) or chip rollers' (p. 86). For more details, please see: A.V.M. Leong, 'The 'Bate-Ficha' business and triads in Macau casinos', *Queensland University of Technology Law and Justice journal*, 2/1 (2004), 83-96.

Many gangs in Chongqing under Wen's protective umbrella also participated in loan-sharking, firearms trafficking and distribution, debt collection, and extortion.

b. The rules of survival: obtaining police protection through guanxi-building

Guanxi with government officials is a luxury item for ordinary people: 'developing guanxi costs time, energy and money—all limited resources' (Fan 2002a: 547-48). Creating a political-criminal guanxi network is, however, a necessary item for locally-based criminal groups. The long-term survival of the eight notorious gangs in Chongqing was largely due to their success in establishing mutually-beneficial guanxi networks with police officers. Guanxi with police officers offers locally-based criminals significant protection against the uncertainties created by a series of crime crackdown campaigns. It is, however, not easy for an outsider to establish guanxi with those who control desired resources (Leung et al. 1995). Guanxi building, as Chen and Chen (2004a) demonstrate, is divided into three sequential stages: initiating, building and using.

i. Initiating guanxi

Two individuals who do not know each other but want to develop guanxi have to identify or create guanxi bases. A guanxi base is defined by Jacobs (1979: 243) as 'a base in which two or more persons [have] a commonality of shared identification'. Guanxi begins with a guanxi base, but the existence of a guanxi base does not imply the existence of a guanxi. For example, two individuals might have a guanxi base (e.g. a neighbour) but they never get in touch with each other; under such circumstances, guanxi or active guanxi does not exist.

A guanxi base, as Fan (2002a) and Chen and Chen (2004a) suggest, can be classified into four categories: (1) kinship and family ties; (2) common social identities, such as *tong xiang* (from the same birthplace), *tong xue* (from the same educational institution), and *tong shi* (from the same workplace); (3) common third party, which refers to ‘two individuals [who] can claim to have guanxi because they have been acquainted through a third party with whom they both have guanxi even though the two individuals themselves have no other direct guanxi bases with each other’ (Chen and Chen 2004a: 311); (4) anticipatory bases, which can be created by two individuals who do not have the types of guanxi bases mentioned in 1, 2, and 3 but can still initiate guanxi through ‘expressing an intention or even a promise to engage in future exchanges, collaborations, or joint ventures’ (Chen and Chen 2004a: 311).

Kinship ties are the most widespread and useful way for gangland bosses to create guanxi with government officials in small towns. However, a kinship guanxi base was not a major way for most gang bosses in Chongqing to establish guanxi with Wen Qiang or Wen’s subordinates (Journalist A 2011; Journalist D 2011). Under Wen’s umbrella, there was only one criminal organization—Xie Caiping’s gang—creating links with Wen Qiang and his subordinates through kinship ties. Xie Caiping, Wen’s sister-in-law, was known as the ‘godmother’ of the Chongqing criminal underworld. Although the guanxi between Wen and Xie was bad, Xie had a good affection-based relationship with Wen’s wife, so family ties still worked very well in Xie’s criminal business (Journalist A 2011; Journalist D 2011). Thanks to Wen’s influence, this kinship guanxi base also facilitated Xie to create and maintain good guanxi with local police officers, including Wen’s subordinate Zhao Liming, and two other police

officers, Guo Sheng and Gan Yong. The establishment of extensive guanxi networks with local police officers enabled Xie not only to be an influential female gang boss, but also to be an effective protector who safeguarded the illegal businesses of other gangsters; for example, she offered protection to Xia Ping's gang (Li et al. 2010).

Most locally-based gang bosses in Chongqing did not have kinship ties with Wen and his subordinates, but because all these gang bosses possessed extensive guanxi webs in Chongqing's underworld and overworld, they were still able to establish guanxi with these corrupt police officers by identifying common social identities and a common third party, or by creating anticipatory bases. An example of identifying common social identities might work as follows: a gang boss would identify the police officer who took charge of a criminal case his gang members were involved in, and get familiar with that officer by finding mutual friends and common experiences.

Being a member of a people's congress or a people's political consultative conference provides a valuable guanxi base for gangland bosses to enter into other members' guanxi networks, allowing them to infiltrate the Chinese political system (also see Xia 2004). In contemporary mainland China, local economic development is inseparable from the entertainment businesses owned by gangland bosses, such as nightclubs, casinos, and the 'red light' districts (Wang 2012b). This makes the relationship between the local governments and nightclub managers harmonious rather than hostile. Moreover, illegal entrepreneurs can buy off senior officials and be admitted into people's congresses or people's political consultative conferences (Government official A 2012; Manager A 2012). For instance, Chen Mingliang, a billionaire and notorious gang boss operating prostitution rings, was a member of

the People's Congress in Chongqing's Yuzhong District before he was arrested in June 2009. Taking part in people's congresses not only provided Chen with a legitimate cover, but also enabled him to develop friendly relationships with senior government officials, including two former police chiefs: Wen Qiang and Peng Changjian.

ii. Building guanxi

The existence of a guanxi base is not sufficient to develop active guanxi. As Fan (2002a: 548) demonstrates, 'there must be some other factor(s) that trigger the development of guanxi'. A wide variety of transactional activities or interpersonal interactions can form triggers that turn outsiders into insiders (Jacobs 1982; Yang 1994).

In Chongqing, bribes in the form of money, free sex, and promotions are frequently used by gangsters to develop good guanxi with government officials. Chongqing's criminal syndicates normally expanded their networks within the Chongqing Public Security Bureau through bribery. For example, in order to secure protection from government officials, Gong and Fan bribed a number of officers, including former police chief Wen Qiang, and three senior officers from the city's public security police division (Yang and Chen 2010). The money offered by Fan and Gong was sent to these corrupt officials as presents for Chinese Spring Festival, the traditional occasion for giving presents and an ideal opportunity to offer bribes (Prosecutor B 2011; Journalist D 2011). Moreover, bribes were offered when money was most needed, for instance when a family member of an official needed medical care, planned to study abroad, or started a new business, or when an official wanted to

buy a new house, make some investments, or travel abroad (Chin and Godson 2006; Li 2011b).

Chongqing's strike black campaign suggests that sex was also frequently used by gangsters to establish good *guanxi* with police officers. For instance, the Wang sisters provided free sexual services for Chen Tao, former deputy head of the city's public security police division. Chen also asked the Wang sisters to provide sexual services for Chen's colleagues, such as Huang Daiqiang and Wen Qiang (Luo et al. 2010; Xinhua 2010h). Another example was former police chief Wen Qiang, a frequent visitor to Yue Ning's lavish nightclubs. He received VIP treatment –free sexual services—or services charged at 30% discount (Yu 2010c).

The practice of using or hiring sex workers (also known as 'public relations girls') by gangland bosses and illicit entrepreneurs to bribe party officials and police officers has become commonplace in China (Jeffreys 2006). Since 1996, there has been considerable debate over whether to criminalize 'sex-related bribery' and corruption. 'Sex-related bribery', however, has not been criminalized by Chinese Criminal Law for two reasons: first, sex is understood as a private matter, with practices relating to the buying and selling of sex being viewed as a moral problem (Jeffreys 2006); second, it is extremely difficult for the police to collect evidence in cases of sex-related bribery and corruption (Wang 2013d). The lack of legislation concerning 'sex-related bribery' encourages gang bosses and illegal entrepreneurs to use sex to build friendly *guanxi* with police officers.

Assisting local police officers to attain promotions was another way to create the political-criminal nexus. It was widely acknowledged that government officials who

were bought off by protection seekers were not reliable, while those who became friends of their bribers were more trustworthy, and those who received assistance from gangsters in their promotions were the best and most loyal protectors of all (Pei 2008). Using *guanxi* and money to secure promotion, gangsters in several major cities successfully manipulated rounds of competitions for jobs (Wang 2012b). Moreover, the nexus was also created when gangsters provided significant information relating to other criminals' activities or removed the obstacles to promotion for government officials. For instance, Ao Xingman, a notorious gangland boss, provided police officer Luo Li with privileged information about other gangs' involvement in a variety of drug trafficking, distribution, and production activities. With the help from Ao, Luo became a well-known hero in a series of actions against illegal drug activities. In return, Luo overlooked Ao's criminal activities (Xinhua 2011a, 2012a). In 2001, following the instructions of Luo, Ao and three confederates murdered Zhang Hao, 'a drug trafficker who threatened to give evidence against Luo after his request for protection was rejected' (Xinhua 2011a: online). In this case, the links between Luo and Ao were strengthened.

iii. Using *guanxi*

Once the target recipient (a police officer) accepts the bribes (e.g. free sex, money, expensive gifts, and assistance for promotion) from a gang boss, the recipient has a sense of moral obligation to reciprocate. As Wong and Chan (1999: 115) argue, 'being an insider, that is, within the network, means that information exchange and mutual understanding are enhanced or exchanged substantially and smoothly'.

For example, the establishment of close guanxi with police chief Peng Changjian enabled three gang bosses (Ma Dang, Wang Xiaojun and Yue Ning) to dominate the prostitution business in Central Chongqing District (Xinhua 2010d). In order to create a good operating environment for the illegal clubs owned by these gang bosses, Peng ordered police officers not to conduct routine investigations of these clubs but only act if the officers received public tip-offs or obtained evidence (Xinhua 2010c). Furthermore, during traditional Chinese holiday seasons (e.g. Chinese New Year and the Mid-Autumn Festival), Peng often invited other senior police officers to take part in parties organized by Ma Dang (Tian 2010). This allowed Ma to establish guanxi with all these officials who became new members of this corrupt guanxi network.

The Chongqing case illustrates that the principle of reciprocity in the guanxi network encouraged corrupt police officers to offer illegal protection to their bribers, such as protection against extortion conducted by public officials, protection of criminal businesses, protection against police harassment, protection against criminal investigation and protection against legal punishment. Corrupt officials also facilitated the supply of essential information from the criminal justice system, the use of officials' personal networks for gangsters to create extensive links, and the provision of assistance in gangs' market competition.

iv. The importance of middlemen

The process of building an effective guanxi network, as Pearce suggests, is extremely time-consuming and complex. This does not mean, however, that the help seeker who does not have direct guanxi with the potential giver cannot employ guanxi to facilitate transactions. In most cases, intermediaries or middlemen have well-

institutionalized roles in bringing together two parties who otherwise probably would not meet. As Pye and Pye (1985: 294) argue, 'middlemen can reduce uncertainty, clarify the respective rewards and advantages, and thus put the relationship on an objective basis, therefore reducing the importance of [the] emotional dimension'.

The Wang Tianlun case offers a good illustration of how gang bosses rely on middlemen to get things done (see Table 4). Wang Tianlun, a billionaire and notorious gang boss, monopolized Chongqing's hog slaughtering and pork market through threats and violence (Wang 2009b; Yi 2010). In mid-December 2003, Wang Dongming, Wang Tianlun's brother, assigned two gangsters to 'teach a lesson' to a pig farmer who refused to sell pigs to the slaughtering company owned by Wang Tianlun's gang; this action ended in the death of that farmer (Wang 2009a). Immediately after this incident, Wang Dongming and two gangsters were arrested by the Criminal Investigation Department (CID) of the Chongqing Public Security Bureau. In order to help his brother and gang members escape punishment, Wang Tianlun had to make use of his guanxi networks and money. Li Zhi, deputy head of the 9th branch of the CID, was a long-time friend of Wang Tianlun because they came from the same town. However, Li Zhi had just been transferred to the CID and had not set up close guanxi networks with his colleagues. He turned to Zhou Hongping, Li's classmates and the head of the 8th branch of the CID, to ask for confidential investigation information of this case. With the help of Zhou Hongping, Wang Tianlun identified two police officers who took charge of the Wang Dongming case.

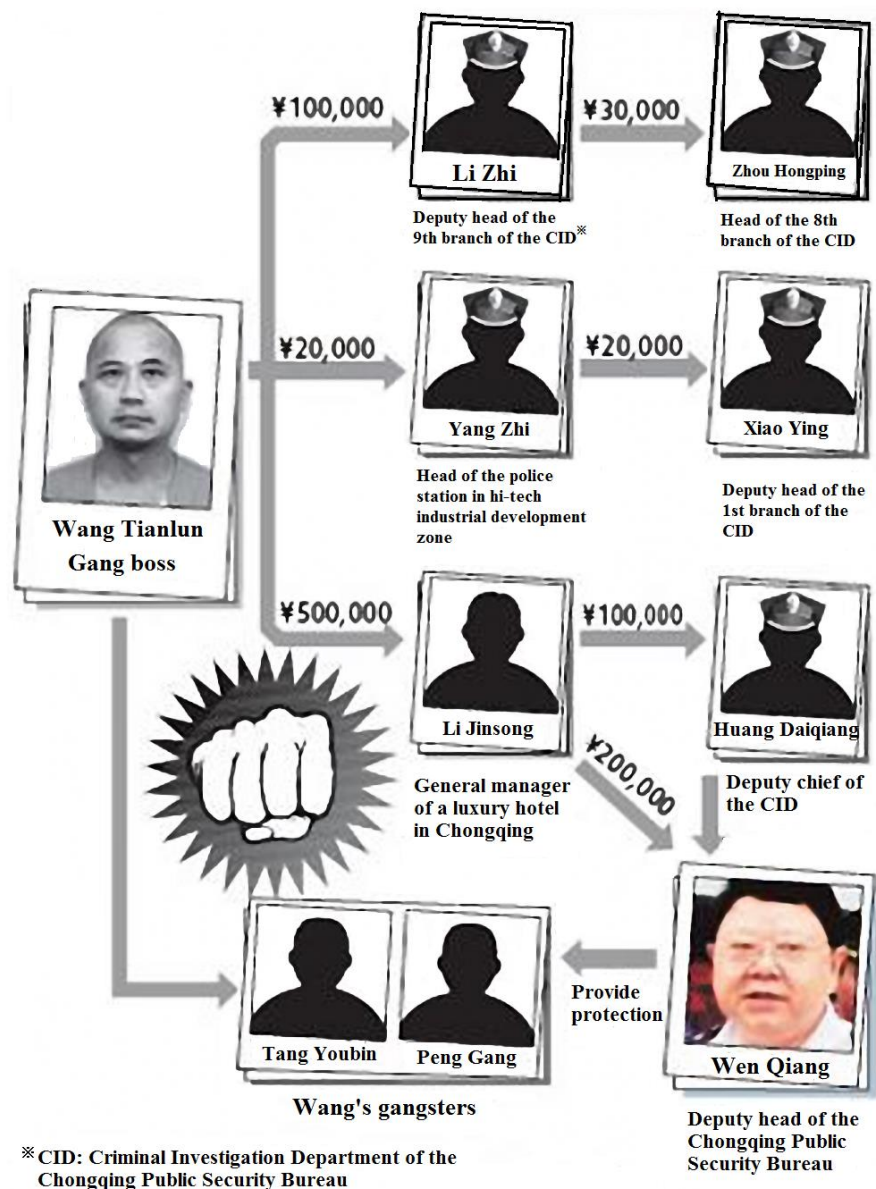
But these officers refused to offer any useful information, which was quite unexpected (Xinhua 2009a).

The failure to gain confidential information through employing Wang Tianlun's relationship with Li Zhi did not stop Wang. He next turned to a *guanxi* middleman, Li Jinsong, with whom he had a long-term business *guanxi*. The long-term management of a luxury hotel enabled Li Jinsong to create a wide *guanxi* network with high-ranking police officers including Wen Qiang. Initially, Wen refused to attend a dinner organized by Li Jinsong (i.e. refused to give *mianzi* to Li). Then Huang Daiqiang, a key member in Wen's corrupt network and deputy chief of the CID, was invited by Li Jinsong as an intermediary to persuade Wen to offer help. After receiving 100,000 RMB, Huang Daiqiang organized a dinner and Wen Qiang, Wang Tianlun, and Li Jinsong were invited. A close *guanxi* with Huang obliged Wen to provide this favour. Wen appointed Huang Daiqiang as a team leader to handle this homicide case. Huang Daiqiang halted the criminal investigation, and as a result, Wang Doingming and his gangsters escaped conviction (Xinhua 2010b, 2010a).⁴² This case illustrates the importance of middlemen in facilitating corrupt transactions. It also shows that money is not the key factor for a corrupt transaction. Instead, government officials care more about the principle of reciprocity or the obligation to save face (*mianzi*) within *guanxi* networks.

⁴² The investigation of the case did not resume until the arrest of Wen Qiang in 2009.

Table 4 Wang Tianlun's *guanxi* networks with police officers⁴³ (Li 2009a; Wang 2009a: online).

This illustrates how the illegal entrepreneur, Wang Tianlun, employs guanxi and money to interfere with criminal investigation and avoid punishment.



To sum up, the political-criminal nexus in Chongqing demonstrates how gangland bosses established close *guanxi* with those in positions of power by adopting the three stages (i.e. initiating, building, and using) of *guanxi* building and emphasizes the importance of middlemen in *guanxi* practice. After the creation of mutually-beneficial networks, corrupt government officials secured the eight notorious local

⁴³ The original table is from ChinaDaily.com. Information in Table 3 has been updated.

gangs' criminal businesses, enabled them to gain access to licit and illicit business opportunities, helped them escape punishment, and assisted them in monopolising local illegal markets.

c. Protection as a commodity: police corruption and the rise of Chinese organized crime

Illegal markets, such as prostitution, gambling, and drug trafficking, have increased in China since the early 1990s.⁴⁴ Qiu Geping argues that China's local governments normally turn a blind eye to illegal markets, such as prostitution and gambling, when the economy of cities is only in its infancy; this has been widely regarded as 'the hidden rule' of attracting foreign investors who are regular consumers of these services.⁴⁵

Denizens of the criminal underworld are unable to make use of state-sponsored protection and enforcement mechanisms to safeguard their personal security and guarantee their property rights, or resolve disputes, because they are operating outside the law (Hill 2003; Wang 2011). For illegal markets to operate effectively, criminals must provide governance institutions themselves to 'define and enforce property rights, adjudicate disputes, and mitigate the harms of externalities' (Skarbek 2011: 702). However, gangs in China fail to limit negative outside interferences, especially threats posed by the criminal justice system such as police extortion, criminal investigation, and crime crackdowns organised by both central and local governments. The inability of gangs to rely on state-sponsored formal

⁴⁴ Federico Varese analyses foreign triads in China in *Mafias on the move* (2011). He offers a similar argument about the development of large illegal markets in China since 1978.

⁴⁵ Qiu Ge-ping, 11 January 2012, interview, Shanghai, People's Republic of China.

protection mechanisms or to defend themselves leads to a huge demand for protection. As Varese argues: 'lack of protection implies that there will be more opportunities to meet that demand, and hence that meeting it will be more profitable than elsewhere' (Varese 2004: 145).

In post-Mao China, the booming illegal markets have created demand for alternative sources of protection. Meanwhile, a supply of people who possess authority and specialise in abusing power is available within China's socialist market. The extensive literature on the theory of corruption in communist and post-communist countries has established that the Chinese Central Government and the rule of law have failed to control widespread corruption (Manion 2004; Pei 2009; Steidlmeier 1999; Sun 1999, 2004). He (He 2000: 245) shows that 'the extent of corruption has increased dramatically and sharply since 1978 with the situation becoming even worse after in the 1990s'. Lo (1993) suggests that the party-state controls the means of production without sufficient supervision, which enables Party cadres to abuse their power for private gain. Moreover, the existence of the *guanxi* network encourages police officers to collude with organized crime groups for private gain as the political and legal system fails to specify and enforce clear criteria for the exercise of police power.

In the absence of strong government and effective self-protection associations, an alternative system of governance—the corrupt network within law enforcement agencies, consisting of police officers connected and coordinated through the rules of *guanxi*—has emerged to settle disputes for illicit groups and safeguard them against negative outside influences.

The existing literature shows that both centralised and decentralised governance institutions acquire resources in three ways, as Skarbek suggests: 'relying on people's inherent cultural preference to contribute, increasing the quality or quantity of the good to entice contributions, abusing threats and violence against people who do not contribute' (Skarbek 2011: 702; Wintrobe 1990, 1998). Past research mainly focuses on how groups finance governance by loyalty and repression, while this chapter reports on the corrupt guanxi network in China and suggests the abuse of power by police officers as a fourth instrument for financing governance.

Corrupt police officers successfully obtain resources by increasing the benefits of participation and raising the cost of refusing to participate. To be specific, creating a political-criminal nexus or 'wearing a red hat' has become the most effective way for organized crime groups to gain extra-legal protection. Interview data suggests that it is impossible for local gangs to have a long-term existence if they fail to create links with government officials, especially those from the criminal justice system (FGD A 2011; Businessman B 2012; Government Official B 2012).⁴⁶ Large sums of money, expensive gifts, free sexual services, and assistance with promotion are usually offered by gangsters to public officials, especially police officers (Chin and Godson 2006; D. Clarke et al. 2006; Punch 2009; Punch and Gilmour 2010). In return, corrupt officials offer illegal protection to their bribers.

⁴⁶ See also: *Mei Chuanqiang*, 27 December 2011, interview, Chongqing, People's Republic of China. Links between organized crime and judicial corruption persist even in former communist countries in Eastern Europe. For more information see: F. Zhilla, 'Organized crime and Judicial Corruption in the Western Balkans: Are Customary Norms Playing Any Role?', *Journal of Financial Crime*, 18/4 (2011), 387-404.

A case study of Chongqing shows that ‘gangs are infiltrating government at ever-higher levels, even into the senior reaches of provincial governments and central ministries’ (Economist 2009: online). Interview data shows that the nexus between gangsters and low-ranking government officials seems tight, while the links between gangsters and high-ranking officials are sometimes loose because these senior officials seldom deal protection directly with gangsters. In Wen Qiang case, for example, the gang bosses only obtained protection services directly from Wen if Wen’s ‘heavenly guardians’ were unable to provide sufficient protection (Journalist D 2011). In one such incident, gangsters wanted to escape punishment for committing a murder, but Wen’s subordinates did not possess the authority to interrupt the criminal investigation. Wen did it instead (Journalist A 2011; Journalist D 2011).

Moreover, apart from services directly offered by corrupt police officers, for example, protecting criminals’ businesses, protecting the criminals from law enforcement authorities, and actively participating in criminals’ businesses (Chin and Godson 2006), protection services are also exchanged within protective umbrellas that are organised as pyramids where high-ranking officials sell protection to the low- and mid-level officials who deal with gangsters directly. The rule of the protection market in the criminal underworld may be as follows: high-ranking officials are top-level producers and sellers, while low-ranking officials buy protection from their ‘bosses’ and resell it to individuals who are willing to purchase extra-legal protection for their criminal businesses (Prosecutor A 2011; Prosecutor B 2011; Journalist D 2011; Taxi driver A 2011; Taxi driver C 2012).

Low- and mid-ranking police officers protect these notorious gangs directly, while high-ranking officers acted behind the scenes guaranteeing the work. This is how corrupt police officers control the production and distribution of illegal protection in the criminal underworld.

4. Conclusion: government authority as a tradable commodity

‘Red Mafia’ is the collective term, coined in this chapter, for corrupt public officials in mainland China who supply private protection through guanxi networks. The protection offered by the Red Mafia refers to corrupt benefits distributed through guanxi networks. The Chongqing crime crackdown offers an excellent opportunity to examine the role of guanxi in facilitating the buying and selling of public offices and building mutually beneficial networks between locally-based criminals and police officers.

Consistent with the first and second hypotheses generated in chapter IV, the Chongqing case demonstrates that the embeddedness of police and judicial activities in guanxi networks results in two unexpected outcomes: a weak and unjust legal system, and the rise of the Red Mafia. Relational power encourages senior public officials to distribute promotions and opportunities to those close to them in guanxi networks, facilitating the formation of illegal job markets within the public sector. Selling public appointments and associating with legitimate businesses are major strategies for senior government officials to obtain illicit benefits, while mid- and low-ranking police officers who want to obtain corrupt benefits normally establish mutually beneficial networks with locally-based criminal groups and illegal entrepreneurs.

In order to deal with external uncertainties caused by anti-crime campaigns organised by both central and local governments, locally-based criminal groups are eager to buy protection from local government officials, especially police officers. Gangland bosses follow the three stages of *guanxi* building and frequently employ middlemen to create close interpersonal relationships with police officers. Corrupt benefits distributed through *guanxi* networks are secure, because fighting against one corrupt official means a war with one's whole *guanxi* network.

The *guanxi* network encourages government officials to engage in corrupt transactions in order to obtain private gain. It also forces honest public officials to offer corrupt benefits to those in their *guanxi* networks. As Kiong and Kee (1998: 81) argue, 'the closer the *guanxi*, the higher the expectation of its reliability by both parties'. Violation of expectation produces a sense of disruption of trust, and thus damages one's reputation in the *guanxi* network.

Where the government loses control over corruption, government authority or public power becomes a commodity. Transactive corruption involves not only illicit exchanges between state and non-state actors in which public officials 'sell' their authority to private actors, but also illicit exchanges among state actors in which high-ranking government officials 'sell' promotions and opportunities to lower-ranking officials and shelter other officials' corrupt transactions. Compared with commodities in legal markets which are traded through price competition, corrupt benefits are exchanged according to the logic of *guanxi*: *ganqing* and *renqing* in the interpersonal relationship.

The existing literature suggests that the study of state-illegal protectors (e.g. the Red Mafia) is an unexplored and under-researched area. Emphasising the importance of the Red Mafia in China's extra-legal protection market does not mean to imply that there are no other types of extra-legal protectors. As this chapter demonstrates, the major beneficiaries of red mafia protection are organized crime groups, legitimate and illegal businesses, and corrupt government officials. The fundamental condition for them to gain corrupt benefits (i.e. protection) is the establishment of guanxi networks that facilitate corrupt transactions between the help seeker and the potential help giver. Private individuals and entrepreneurs who are unable to employ guanxi networks with those in power have to rely on alternative sources of extra-legal protection.

It is, however, unlikely that the Red Mafia will be able to dominate the criminal protection business in China. This is due to two reasons: on the one hand, the protection supplied by the Red Mafia is distributed within guanxi networks, and establishing close guanxi with government officials is time-consuming and costly; on the other hand, corrupt public officials do not always possess comparative advantages over private-illegal protectors (the Black Mafia). For example, by abusing power, high-ranking government officials are frequently invited by private businesses to deal with disputes between government debtors and private creditors, while street gangsters may enjoy competitive advantage in coping with disputes between private actors (e.g. private debt disputes) or resolving a certain kind of social problem that local authorities are reluctant to deal with (e.g. the problem of 'nail households'). The study of extra-legal protection in China should not be limited

to the Red Mafia; attention should also be paid to the role of organized crime groups in the provision of private protection.

To sum up, the rise of the Red Mafia in China's socialist market economy is a key feature of state weakness. The Chongqing case demonstrates how *guanxi* distorts China's legal system and facilitates corrupt transactions within and between public and private sectors. The Red Mafia sells private protection (or distributes corrupt benefits) to protection seekers through *guanxi* networks, but it is unable to meet the demand. For example, entrepreneurs in the criminal underworld tend to resort to reputable gang bosses to mediate disputes, protect rights and facilitate transactions when they do not possess *guanxi* resources with government officials or where the Red Mafia's protection is perceived as ineffective. In legal markets, private individuals or merchants who distrust the legal institutions may employ private-illegal protectors (the Black Mafia), but whether the buying and selling of Black Mafia services is embedded in *guanxi* networks is thoroughly discussed in next chapter.

Chapter VII The Black Mafia: how criminals take advantage of China's modernisation

From theoretical and empirical perspectives, chapters V and VI demonstrate that the subversive influence of guanxi on China's legal system results in the failure of the state-sponsored institutions to fulfil the huge demand for protection generated by the widespread creation of private property rights and the increasing number of disputes. The third hypothesis generated in chapter IV predicts that weak law enforcement agencies inevitably lead to the emergence of other forms of protection and enforcement. The author's fieldwork in China focuses its main attention on illegal forms of protection. Consistent with the third hypothesis, empirical data collected from China reveals two particularly striking phenomena: the rise of underground police organizations and the emergence of unlawful hospital security teams. China's economic reform and weak legal framework make the supply of extra-legal protection and illegal enforcement a profitable business for criminals and a major source of income for many unemployed people.

The term 'Black Mafia', in this thesis, refers to locally-based criminal groups and unemployed groups which derive their income mainly from the provision of unlawful protection and quasi law enforcement. Fieldwork in China, especially the city of Qufu, provides valuable materials to examine the role of guanxi in the buying and selling of extra-legal protection. These materials are used to test the fourth hypothesis, which

posits that *guanxi* plays an essential role in the buying and selling of black mafia services.

The movement of street gangs into extra-legal protection businesses is becoming a serious problem in most Chinese cities. For example, 64 criminal groups which acted as underground police organizations providing illegal protection and dispute resolution services were destroyed during a ‘strike black’ campaign in 2008 in Handan, a prefecture-level city located in Hebei province (Zhang 2008b). The biggest criminal group, headed by Li Falin, was invited to resolve a wide range of disputes, including neighbourhood disputes, commercial and contractual disputes, and land disputes between residents and local authorities. The Li Falin group offered over 1,000 enforcement actions between 2002 and 2008 (Hou 2008; Zhang 2008a).

Moreover, street gangs are invited by many local hospitals to deal with medical disputes. Disputes between hospitals and patients pose a great challenge to hospital security (Jin et al. 2006; Li et al. 2004). For example, on the morning of 23 August 2011, a full-scale melee broke out in the atrium of a hospital in the southern city of Nanchang between ‘the hospital’s in-house security team’—consisting of hospital staff and gangsters—and the family members, friends and neighbours of a patient who had died due to hospital negligence (Economist 2012; Shi 2011). During this violent incident, three cars were destroyed and 15 people were injured. The increasing number of ‘incidents’ aiming at hospitals and their staff suggests that the trust relationship between doctors and patients has eroded (FlorCruz 2011). Legal channels, such as judicial dispute resolution, mediation and negotiation, are available but prove inefficient in practice (Xiang et al. 2011). An internal security

system consisting of illegal enforcers (criminals and unemployed people) becomes an effective enforcement unit which avoids disrupting the normal running of the hospital. This clearly merits further examination.

This chapter will argue that Chinese businesses are increasingly turning away from the legal protection offered by state-sponsored institutions and legitimate private agencies and choosing instead the extra-legal protection services supplied by organized crime groups. Criminal protection or quasi law enforcement, however, has received surprisingly little attention in discussions of organized crime relating to China (Broadhurst 2013; Chen 2005; Chin and Godson 2006; Curtis et al. 2002; Lintner 2004; Lo 2010; Shen et al. 2010; von Lampe et al. 2012; Wang 2013b; Xia 2008; Xu 2009a; Zhang and Chin 2008). After searching China's academic database (CNKI Database) and the English-language literature through Google Scholar and Scopus⁴⁷, it becomes evident that although thousands of journal papers, books and dissertations focus on Chinese organized crime, no academic publication examines the emergence of extra-legal protection in China. The study of extra-legal protection in this thesis goes some way towards filling a gap in the existing organized crime literature.

⁴⁷ Google Scholar and Scopus are two web search engines which provide a simple way to search for scholarly literature. Through their 'cited by' feature, both engines allow users to access abstracts of publications which have cited the paper being viewed. Through its 'related articles' feature, Google Scholar enables users to extend their reading lists and find papers which are closely related to the original search. For more information, please see: M. Falagas et al., 'Comparison of Pubmed, Scopus, Web of Science, and Google Scholar: Strengths and Weaknesses', *The FASEB Journal*, 22/2 (2008), 338-42.

The remainder of this chapter is structured as follows: section 1 provides a general description of the rise of the extra-legal protection industry in contemporary China by applying the demand and supply theoretical framework. Section 2 focuses on analysing two widely publicised cases: underground police organizations (*dixia chujingdui*) and the provision of hospital security by unlawful protectors (*yiyuan neibao*). In order to offer a clear picture of how extra-legal protection groups work, it examines their group structure, illegal activities and methodologies, and the mechanisms of their emergence. Section 3 explores how private individuals and entrepreneurs employ red mafia protection, black mafia services and law enforcement to cope with government officials' extortion, solve the problem of being stalked, and enforce loan repayment. Section 4 discusses the theoretical challenges raised by the study of extra-legal protection to the traditional understanding of organized crime in China. The research into extra-legal protection is particularly important because it challenges existing stereotypes about organized crime and contributes to the understanding of trends in Chinese black societies. Section 5 concludes.

1. The movement of criminal groups into private protection businesses in post-Mao China

China's post-1978 economic reform has been recognised as essentially successful, but this process of economic transition is mirrored by the resurgence of organized crime groups (Xia 2006). Most scholars focus on the involvement of Chinese organized crime groups into 'traditional' businesses such as gambling (Hing 2005), prostitution (Liu 2012a), cigarette smuggling (von Lampe et al. 2012), drug trafficking

and distribution (Huang et al. 2012), human smuggling (Zhang and Chin 2002), and counterfeiting (Chow 2000). Some criminologists point out that a large proportion of locally-based criminal groups also engage in legitimate businesses by establishing business fronts, thus it is difficult to distinguish illegal conduct from legitimate business (He 2009b; Wang 2013b; Xia 2008).

The existing research, however, fails to present the whole picture of Chinese organized crime. Based on fieldwork data and news reports in recent years, this chapter suggests that criminal groups in China are showing great interest in a new area: the business of private protection. This emerging phenomenon can be explained by using the theoretical framework ‘the supply of and demand for private protection’ suggested by Gambetta and other scholars (Chu 2000; Gambetta 1993; Hill 2003; Skarbek 2011; Tzvetkova 2008; Varese 2001, 2011a; Wang 2011).

On the supply side is the increase of surplus labour in both rural and urban areas. China’s new agricultural policy—the household responsibility system—not only allows rural peasants to sell surplus production on the open market, but also enables peasants to free themselves from the land and move to urban areas to earn extra income (Lo and Jiang 2006; Ma 2001). The number of migrant peasant labourers increased dramatically from around one or two million at the beginning of China’s economic reform in 1978 to 147 million in 2006 (Zheng 2008). But migrant peasants do not have equal access to employment; as Lo and Jiang (2006: 110) argue, ‘they can only fill low-income positions and jobs that urban residents are reluctant to take up’.

China's surplus labour also consists of mass layoffs caused by the privatisation process. China's economic reform in urban areas focuses on the improvement of efficiency and profitability, resulting in millions of employees losing their jobs in state-owned enterprises (SOEs), collective enterprises, and government and public service units (Chiu and Hung 2004; Li and Putterman 2008). From 1996 to 2004, over 50 million workers were laid off, about 80% from the state sector (Dong and Xu 2008; Yang et al. 2010). The existence of a large number of laid-off workers and underpaid and underprivileged labourers from the countryside signals the emergence of a new urban underclass, which is a major challenge confronting the Communist Party (Solinger 2006). These marginalised workers and peasants become new blood for criminal activities and tend to regard organized crime as a stepladder of social ascent if opportunities arise (Deng and Cordilia 1999; Lo and Jiang 2006; Xia 2009). In weak states a situation may arise where some criminal groups not only seize criminal opportunities, but also enter into the business of private enforcement and provide basic security and protection against plunderers (Mehlum et al. 2002).

On the demand side, China's booming markets foster a demand for protection. Locally-based criminal groups have emerged to exploit the new markets—both legal (construction and manufacturing) and illegal (gambling, prostitution, and drug trafficking)—that have emerged and expanded. The huge demand for private protection has arisen for a combination of reasons. On the one hand, two types of market operators—those who deal in illegal goods or services and those who deal illegally with legitimate goods—cannot resort to state-sponsored law enforcement when disputes arise, and thus benefit from 'governmental' services by non-state

actors (Gambetta 2011). On the other hand, a modernising nation's economic prosperity leads to a growing number of disputes among market operators, 'requiring at least a modest legal infrastructure centred on the protection of property and contract rights' (Posner 1998: 1). But the social embeddedness of police and judicial activities into *guanxi* networks, as chapter V and chapter VI demonstrate, is an ongoing problem in China, a problem that greatly undermines public confidence in China's legal system. As Li (2012: 873) argues, the interplay between law and party politics in China's courts and the absence of judicial scrutiny are two fundamental features in the Chinese judiciary, resulting in 'corruption being an endemic, institutionalized activity in China's courts unlike the rather idiosyncratic and isolated incidents that may occur in any legal system elsewhere'.

The legal system lacks its ability to fulfil the increasing demand for protection, thus 'a demand for alternative sources of protection is expected to arise' (Varese 2004: 145). And meeting such a demand is more profitable in a weak state, like China, than elsewhere. In this case, criminal groups consisting of marginalised workers and peasants earn their living by taking advantage of the wide gap between the demand for legal protection of property and contracts and the relative inefficiencies of supplying these services by the state. The shift of criminal groups to the private protection sector is the key aspect this chapter aims to explore. The following section analyses two of the most influential phenomena to present a clear picture of how these criminal groups supply extra-legal protection and quasi law enforcement.

2. Case studies: how criminal groups and the urban poor survive by forming extra-legal protection organizations

The unexpected result of China's economic reforms is the increasing marginalisation and poverty of three new groups in the cities: laid-off workers, peasant migrants and the new urban poor (Solinger 2006). Take peasant migrants for example: Zhou Litai, a famous lawyer fighting for the rights of migrant workers injured and mistreated by private enterprises, categorises peasant migrants into four subgroups: 1) migrant workers providing labour for factories and construction sites; 2) peasant migrants as lawbreakers involved in a range of criminal activities such as robbery, theft and fraud; 3) sex workers; and 4) casual labourers such as porters (Lawyer A 2011). Problems encountered by rural migrant workers are described by Li Shi as follows:

'The majority of migrant workers face considerable insecurity in terms of employment, income, social protection, and access to education for their children. Their housing conditions are much worse than those of local urban residents, and even worse than those they would have experienced in their place of origin if they had not migrated.' (Shi 2008: 22)

Confronting social problems such as massive unemployment, economic inequality, relative deprivation and impoverishment, marginalised groups have to adopt drastic measures in order to survive. In ancient China, the most effective strategy for those displaced from their villages was to create secret associations for self-protection (Murray 1993). In contemporary mainland China, the formation of extra-legal protection groups has become another method for the new urban underclass to survive. Two influential phenomena, underground police organizations and the

provision of hospital security by unlawful protectors are examined in order to have a better understanding of how criminals and marginalised people produce, sell and distribute their security services.

2.1. Case study one: underground police organizations

A new type of criminal group poses security threats to local communities and markets in most Chinese cities. It is known by many names: underground police organization (*dixia chujingdui*), underground police gang (*dixia chujing bang*) or underground police and emergency service unit (*dixia 110*) (Xu 2010). Recent news reports disclose that underground police organizations consisting of a large number of laid-off or unemployed workers are frequently invited by private individuals, enterprises and even local governments to deal with problems that are alleged to be urgent, difficult and risky (Cheng et al. 2009).

The main business of underground police organization is providing efficient and effective services such as dispute resolution and private enforcement (Guo and Liu 2010). This type of group is far from the private police forces that are owned by non-governmental entities; underground police organizations are deemed illegal by both central and local governments. This is because the supply of private protection by underground police organizations is based on threats and violence.

Since 2008, a great number of underground police groups have been destroyed during 'strike black' (anti-crime) campaigns in many cities, such as Handan city in Hubei province, Changsha—the capital city of Hunan province, Pizhou city in Jiangsu province, Xi'an—the capital city of Shaanxi province, and Fuzhou city in Fujian province. In this case, the extra-legal protection organization as a new type of

criminal group merits further examination. This part explores the social organization of Chinese extra-legal protection. To be specific, it describes and analyses the structural and operational features of underground police organizations.

2.1.1. Group structure

Organization

Most organized crime groups in contemporary China and the more traditional Chinese triads, both of which are characterised by codes of loyalty and a pyramidal organizational structure (Chu 2000; He 2009b), while underground police organizations favour structural fluidity and flexibility. To be specific, an underground police organization is a powerful criminal network consisting of small groups connected through personal relationships among gang leaders (Liang 2010). Each enforcement action involves at least one criminal group. A customer—private individual or entrepreneur—who is in trouble informs a gang leader or organiser of how many people he needs and how much he will pay. The gang leader will then spread the information about enforcement actions to his followers and other leaders if necessary. Taking advantage of new technologies such as mobile phones and *Tencent QQ* (a free instant messaging computer program in China), the information about ‘customer orders’ can reach everyone within several minutes (Yan and Sun 2005). A agreed number of gangsters arrive at the agreed place at the agreed time to carry out agreed action, and will leave the ‘battlefield’ immediately after the task is completed (Xinhua 2009b).

Organisers or gang leaders usually supervise the whole action without directly participating (Liang 2010). Those members who are involved in dispute resolution or

private enforcement actions sometimes do not know each other as they may come from different cities or criminal groups; therefore a clear and uniform symbol (e.g. wearing a red wrist strap) is required to distinguish friends from enemies (Yan and Sun 2005). A self-organising structure adopted by the underground police organization can increase its ability not only to seize the criminal opportunities generated within the network, but also to meet customers' different needs and expectations.

Personnel and recruitment

An investigation conducted by the public security bureau of Shaanxi province reveals that most members involved in quasi law enforcement actions are young unemployed people aged between 18 and 25 (Su 2009). A majority of them are peasant migrants who failed to find jobs in the city. Some underground police groups may also consist of ex-prisoners (Xinhua 2011b). In addition, students from sport universities and retired sportsmen are sometimes regarded as preferable enforcers since they enjoy comparative advantage in the use of violence (Yan and Sun 2005). Members in each group either come from the same birthplace (*tong xiang*) or used to work together (*tong shi*). It is also reported that some young people initially know each other via cyberspace (Xinhua 2011c).

2.1.2. Illegal activities and methodologies

Soft Violence

In a departure from traditional mafias that establish their reputation through the use of violence, an underground police organization seldom resorts to physical violence

in the process of supplying protection and enforcement (Liang 2010). Soft violence is a major and effective method adopted by these illegal protectors and enforcers. Interview data suggests a tentative concept of 'soft violence action' which indicates the practice of achieving goals through harassment, humiliation, blame, threat, stalking, criminal coercion and other methods, all of which avoid using violence directly or causing serious physical damage (FGD F 2012). Victims commonly experience enormous stress, anxiety and fear; as a result, most of them choose to withdraw from conflicts.

The choice of soft violence as a major 'weapon' generates great challenges for police investigation and evidence gathering. Police officers normally choose not to take action against unlawful enforcers if physical violence does not happen (Police Officer A 2012). Law enforcement officers also fail to identify the leaders of criminal enforcement actions as they normally 'command war' through remote control (Guo and Liu 2010). The only measure police officers can take is crowd dispersal. Depending on the use of soft violence, an underground police organization can effectively defend itself against crime investigation. Enforcement services offered by underground police officers seem more efficient than local policing units, and thus unlawful enforcers are invited by an increasing number of customers (e.g. real estate developers, gambling house owners, bar managers, self-employed businessmen, underground bank owners) to deal with a wide range of disputes.

Extra-legal protection and quasi law enforcement

Underground police officers are frequently employed to resolve a wide range of disputes such as neighbourhood conflicts, traffic accidents and debt enforcement

(Wei 2008). They are also invited to assist entrepreneurs in monopolising local markets by disrupting their competitors (Xinhua 2009b). Extra-legal protection and quasi law enforcement are the best-selling commodities in the illegal markets. For example, disputes between sex workers and customers are common and often escalate to violence. Underground police officers become the only effective choice for sex workers and brothel operators to protect their property rights and personal security as both buying and selling sex are illegal in mainland China (Zhao 2012).

Furthermore, illegal protection and enforcement services are beneficial to local governments. This gives rise to the formation of the collaboration between local authorities and illegal enforcers, a surprising truth in post-Mao China. Criminal enforcers are acting as ‘servants’ of local government as they can act outside the law which local authorities cannot (Hou 2008; Wang 2011). The provision of dispute resolution services by extra-legal enforcers in demolition projects is a good example to illustrate this unusual phenomenon.

The transfer of land-use rights has become an important source of income for most Chinese cities because Chinese local government buys land at a low price and sells it at a high price (Walker and Hin 1994). As Chinese economist He Qinglian argues, they ‘requisition’ land from the original occupants through various means, without considering the rule of law (2007b: 45). During this process, the toughest issue local authorities have to conquer is ‘nail households’ (*dingzi hu*)—property owners who refuse to ‘give up rights of return on their property when they are offered what they consider insufficient compensation from developers’ (Mertha 2009: 234).

Services offered by criminal enforcers, suggested by the existing literature and interview data (Businessman B 2012; FGD D 2012), are deemed as efficient when dealing with the problem of 'nail households' (Zhao 2012; Osburg 2013). In contrast with the violent demolition that has been described by the media as a symbol of China's urbanisation, most demolition projects in recent years proceed without causing death or injury to residents (FGD E 2012). Local government officials and real estate developers reveal that street gangs or underground police officers are only invited when local government officials and real estate developers have tried every legal measure but failed to persuade 'nail households' to relocate. The practice of stalking, threats and trespass used by these criminal enforcers have proved more effective (Businessman B 2012).

For example, one resident refused to relocate despite all troubleshooting measures taken by real estate developers and local authorities, but he agreed to accept the compensation immediately after the involvement of street gangs in the project. The only requirement of relocation was transferring his grandson to a new school in different city as his grandson was bullied, threatened and harassed by unknown persons (Yu 2008a; Zhao 2012). The involvement of street gangs in the demolition project is allowed by local authorities, thus local police officers turn a blind eye to these illegal actions and only intervene if injuries or deaths are caused.

Price and division of money

The protection sector charges different prices not only for different services, but also for different groups of customers. Take 'underground emergency services' for example. Each member who participates in quasi law enforcement can obtain

around 100 RMB (about £10) in appearance fees each time (Cheng et al. 2009). Compared with rank-and-file members, each organiser or gang leader can earn more money, ranging from 1,000 RMB to 3,000 RMB (Yan and Sun 2005). In addition, some organisers overstate the number of members who are actually involved in enforcement actions in order to make extra money (Guo and Liu 2010). When a conflict or dispute is resolved by exceptional means, like violence, rather than pure coercion, each member can receive at least 200 RMB. Violence will inevitably result in some injuries. In this case, employers have to pay the medical bills of all the members who are injured in the process of resolving disputes. If extra-legal enforcement activities bring unexpected outcomes such as criminal investigation and prosecution, employers have to pay a large amount of damages for 'settling-in allowance' or 'travel allowance' (Liang 2010). To establish good relationships with local authorities or entrepreneurs, underground police officers sometimes offer free services or services charged at a certain discount (Manager B 2012).

Unlike 'underground emergency services' that usually require dozens or even hundreds of people to assemble and react quickly, the debt collection service is often offered by a small group with fewer than five persons (Wei 2008; Xu 2005). It is one of the most profitable businesses since illegal enforcers normally charge 30% or 50% of the successfully collected money (FGD I 2012). They may charge a discounted price, however, if employers and collectors have formed a long-term and harmonious relationship (Xu 2005). Regarding the provision of land dispute resolution services by illegal enforcers, there is no clear information on service

charges. But the existing literature suggests that the net profit of demolition services is even more than that of operating gambling dens (Zhao 2012).

2.1.3. The mechanisms of emergence

The supply of people trained in violence and the demand for criminal protection and quasi law enforcement are two key factors for the birth of extra-legal protection groups (Varese 2006). In China, the supply of abundant surplus labour and the demand for illegal protection have resulted in the rise of underground police organizations. To be specific, on the supply side is mass lay-offs and peasant migrants. On the demand side is the great market need for quasi law enforcers caused by a growing distrust both of police officers and of the entire legal process.

The World Values Survey suggests that 'Chinese citizens in general had lower levels of confidence in police than the U.S. citizens did' (Wu and Sun 2009: 174). This might be due to the fact that police officers have been clearly associated with serious corruption. A growing body of literature examines police corruption and the links between criminal groups and police officers (Chin and Godson 2006; Jiao 2001; Wang 2013b). Vocabulary frequently used by the existing literature shows a low level of confidence in police enforcement: unfairness, taking bribes, extortion, torture and the collusion between police and gangsters (Broadhurst 2013; He 2007a; Qiu 2008).

For distrust in the police, the lack of efficient and effective policing is another serious problem urging private individuals and entrepreneurs to find alternative sources of protection. The Secretary of the Political and Legal Commission in a county-level city of Shandong province points out that the lack of police results in the failure of local police officers to meet the society's needs for law and order. As he states,

‘In 1993, the police-population ratio was one police officer for every 1,000 persons. This means that there were only 440 police officers for our city with a population of 440,000 in that period. The number of police officers has not changed for nearly 20 years, even though the population increased dramatically, from 440,000 to 640,000. In the last two years, the number decreased as about 70 police officers retired, but the local police department failed to recruit any new members. As you know, recruiting new police officers is not an easy issue in recent years because it requires candidates to pass both National Judicial Examination and Civil Service Examination (two of the most difficult exams in China). The number of police officer younger than 30 is fewer than five. In this case, the aging problem brings great challenges for the efficiency of the police.’

(Businessman D 2012)

As mentioned above, the limited number of police officers as well as the aging problem led to the incapability of police to deal effectively with social problems. Although all the police officers I interviewed assured me that they can immediately respond to emergency calls, most entrepreneurs I interviewed showed that law enforcement is neither fair nor effective (FGD C 2012; FGD E 2012; Government official A 2012; Police officer A 2012). Chinese users of quasi law enforcement agree that underground police officers are more efficient than the law enforcement agencies (Li 2008; Zhang 2008b).

The author’s fieldwork data, however, contradicts the survey evidence offered by other scholars. The data from both Beijing and rural areas shows ‘highly positive popular perceptions of—and an overwhelming popular willingness to mobilize—both

the courts and the police' (Michelson and Read 2011: 170). But further analysis suggests that the perception of people who experienced the process is far more negative than the perception of non-users. Their perceptions do not hold sway over the general perception of official justice as the ratio of users to non-users is low in China (Michelson and Read 2011). A high level of disillusionment and a more negative perception of the fairness and effectiveness of the legal process are fostered by concrete and first-hand experience (Gallagher 2006).

An interviewee's personal experience can be used to explain why many entrepreneurs would like to buy extra-legal services rather than resort to courts. In order to recover an unpaid invoice, he firstly decided to take the legal route. After winning the lawsuit, he thought he would recover his debt shortly. However, the enforcement chamber failed to enforce the judgement even after three years. This phenomenon is normally described as 'winning the case, but losing the money' (*yingle guansi, sule qian*). The failure of legal enforcement forced him to seek alternative means. A friend introduced him to an influential gang leader. After reaching an agreement on the division of money, he received payment within just three days (FGD D 2012). Negative experience with the courts and the efficiency of private channels suggest that resorting to extra-legal enforcers is a preferable way to collect debts.

Another interviewee's experience is also useful to explain why local businessmen tend to rely on street gangsters to recover private loans:

'I tried all legal means [e.g. negotiation through a middleman and lawsuit], but the debtor still refused to repay me. Nevertheless, I knew he had the ability to

pay his debt. So I was really angry. Our friendship was ruined... it was not about money! It is about mianzi (face). He [the debtor] treated me as an idiot. I told my friend [a street gangster] that he could keep any money he got back from my debtor. My friend managed to fully recover the debt and voluntarily gave me 60%. He is a trustworthy man; we have deep ganqing [affection]' (FGD I 2012).

This suggests that gangster's quasi law enforcement is genuine and efficient. Enforcement services offered by street gangsters are important for private entrepreneurs, complementing the means of legal enforcement and protection.

2.2. Case study two: the provision of hospital security by unlawful protectors

Customers who buy or use extra-legal protection and quasi law enforcement services consist not only of private individuals, entrepreneurs, and local authorities who are unable to fight off 'nail households' through legal means, but also of state-sponsored institutions such as hospitals. China has experienced a growing number of medical disputes (Burkitt 2012; Liebman 2013). In recent years, the number of cases involving physical violence against doctors and nurses has risen. As the Economist magazine states:

'According to figures from the Ministry of Health, more than 17,000 "incidents" aimed at hospitals and their staff occurred in 2010, up from around 10,000 five years earlier.' (Economist 2012: online)

The doctor-patient relationship is increasingly being eroded by tension and violence. A national survey financially supported by the Chinese Association of

Science and Technology of 3,665 medical professionals and 1,198 patients in 2008 suggests that:

‘80% of the surveyed medical professionals say the doctor–patient relationship is poor or very poor... In fact, 3.9% of the surveyed medical professionals report having been physically assaulted by patients or their relatives within 1 year, more than half say that they have been subject to verbal abuse, and nearly a third say that they have been threatened.’ (Zhang and Sleeboom-Faulkner 2011: 460)

Meanwhile, the increasing erosion of the doctor-patient relationship is also closely associated with a new phenomenon: ‘Yi Nao’, which refers to medical or hospital disturbance created by patients or their family members or gangsters. The number of Yi Nao has increased dramatically over the past 10 years (Zheng et al. 2006). In order to meet the great demand from patients and their relatives who want to use Yi Nao to obtain compensation for perceived or actual medical malpractice, Yi Nao gangs consisting largely of unemployed people are frequently invited by patients or their family members to deal with medical disputes (Hesketh et al. 2012a). The involvement of Yi Nao gangs poses serious security problems for most local hospitals in China. As Hesketh et al. argue:

‘Criminal gangs are prepared to go to extreme lengths to obtain compensation from hospitals on behalf of families in dispute with hospitals, in return for a substantial cut of the payment. Hospitals are usually forced to give in to their demands, but often not before serious damage has been done to staff and facilities. Of the 124 cases of violence reported on the website, 37 involved Yi

Nao, including many of the more serious attacks in the past five years.’ (2012a:

1)

The high frequency of verbal abuse and physical assault directed against medical professionals and the use of Yi Nao vigilante groups signal that China’s medical profession is in crisis. As a consequence, hospitals and local governments attempt to protect health-care workers by adopting various strategies such as increasing police patrols presence inside hospitals, improving communication between doctors and patients, increasing investment in health resources, and improving the effectiveness of medical malpractice litigation (Hesketh et al. 2012b; Hesketh et al. 2012a; Wang et al. 2012). Legal means of anti-violence in hospitals require not only a large amount of government investment but also long-term institution building. This means they cannot become effective in the near future. As a result, local hospitals have introduced a pragmatic solution: the purchase of protection services offered by ‘informal security teams’.

Informal security teams are unlawful enforcers who are invited to cope with the problem of hospital violence and to protect medical staff and hospital property. Compared with private security firms that can only supply services that have been authorised by the government, informal security organizations are able to offer extra-legal means of dispute resolution which Chinese law prohibits but hospitals actually need (FGD F 2012). The provision of hospital security by unlawful protectors is a widespread phenomenon in China, but it is relatively unknown in Western countries. Therefore, the following parts discuss three major aspects of these unlawful security groups that offer quasi law enforcement to many local hospitals:

group structure, illegal activities and methodology, and the mechanisms of emergence.

2.2.1. Group structure

In order to adapt to the changing institutional environment, 'Chinese criminal forces have chosen a variety of organizational structures ranging from hierarchy to the market and the network' (Xia 2008: 1). Xia's interpretation provides insightful suggestions for this chapter to explain the organizational formation of informal security organizations. A traditional hierarchical structure that usually consists of a 'dragonhead' on the top with varying levels of members beneath him is not an effective organizational form for these informal security organizations. This is because the demand for security services varies every day and one group of extra-legal protectors may find it difficult to fulfil the needs in situations when street gangs are invited by patients and their relatives to take part in Yi Nao. Interview data suggests that many informal security organizations adopt the network form of organization that is thought flexible and effective (FGD F 2012). These groups usually operate independently, but will collaborate closely if necessary. In other words, other criminal groups will provide assistance if an informal security organization is unable to defeat Yi Nao gangs.

Many informal security organizations have legitimate business fronts. For example, *Southern Weekly*, China's most influential liberal newspaper, reported that over 100 hospitals have outsourced medical dispute resolution to one company called 'Daocheng Hospital Management Company' (Daocheng) because hospitals are less capable of dealing with Yi Nao (Cai 2012a). Although the involvement of Daocheng in

settling medical disputes has been supported not only by local hospitals but also local governments, services offered by Daocheng are prohibited by the rule of law.

According to fieldwork data, the informal security organization in my research site recruits unemployed people consisting of laid-off workers, ex-prisoners and hooligans (FGD F 2012). Daocheng only recruits young men aged between 22 and 28 over 180 cm tall. Sportsmen, retired soldiers and students from police colleges are preferred. One of the most important recruitment requirements is that the applicant should have an 'ugly' face (Cai 2012a).

2.2.2. Illegal activities and methodologies

Informal security organizations are invited to take charge of three major aspects: resolving medical disputes, protecting medical professionals and hospital property, and stopping disturbances created by patients and their relatives (Cai 2012a). In order to avoid prosecution, these informal security groups frequently adopt soft violence as a means of enforcement. Coercion, threat and fraud are common methods for settling medical disputes and suppressing Yi Nao. The trigger for use of violence by unlawful protectors is aggressive behaviour by patients or their family members (Lv 2007).

Here is an example of how one unlawful security group expands its illegal protection business (FGD F 2012). One criminal group (the Tian'an group) reached an agreement with a local hospital to deal with medical disputes and Yi Nao in 2004. At the beginning, the hospital was routinely patrolled by eight informal security staff. The involvement of the Tian'an group brought a fundamental change to hospital security: the number of Yi Nao deceased dramatically. The positive feedback from

the hospital helped the Tian'an group build its reputation. As a result, other institutions (e.g. high schools) in need of extra-legal protection also purchased services from the Tian'an group. In order to meet the increasing demand, the leader of the group adopted two strategies to improve productivity and profitability: 1) recruiting new members, 2) adopting flexible working practices such as moving workers from location to location according to demand. If hospital professionals were not bothered by Yi Nao, the director of the hospital did not care about how many informal protectors worked every day. As a result, the Tian'an group made a large profit because the hospital hired and paid for eight guards, but only three routinely patrolled the hospital.

Overstating the number of medical disputes, fabricating the details of hospital disturbances and even recreating Yi Nao if necessary; all these tactics are employed by these informal security groups to remind administrators that without their protection hospital violence will certainly occur (Cai 2012b). The unlawful strategies applied by informal protectors can generate a long-term demand for protection from local hospitals. Moreover, these unlawful protectors are frequently invited by patients and their relatives as Yi Nao gangs to settle medical disputes with other hospitals that are not under their protection (Cai 2012a). To sum up: coping with, and at the same time recreating, Yi Nao is a means by which the power of informal security companies can persist for a long time.

2.2.3. The mechanism of emergence

The purchase of extra-legal protection and unlawful enforcement is a pragmatic strategy that helps many local hospitals respond to the changing environment,

where legal channels of dispute resolution are unable to settle the increasing number of Yi Nao. It is therefore worth examining the reasons why patients and their relatives tend to regard Yi Nao as an important way of expressing their dissatisfaction with poor medical treatment and as a way of obtaining compensation for perceived or actual medical malpractice. Confronting medical disputes, patients and their family members can adopt three methods of resolution: administrative mediation by local health bureaus, medical malpractice litigation and third-party mediation (Liebman 2013; Wang 2005).

The rise of violence and protests relating to medical disputes signals the failure of these legal channels of dispute resolution. Firstly, studies show the widespread distrust of administrative mediation offered by local health bureaus (Zhu 2010). The reason suggested by Hesketh et al. (2012a) is that legal channels for mediating medical disputes, which operate through local health bureaus, are inefficient and perceived to be heavily weighted in favour of the medical establishment.

Secondly, pursuing doctors for compensation through the courts is perceived as unreliable and inefficient. In medical malpractice lawsuits, 'the key step is for the claimant to prove that the physician failed to meet the required standard of care' (Samanta et al. 2006: 321). According to the 2002 Regulations on Handling Medical Accidents (the 'Regulations') issued by the State Council, medical review boards are intended to evaluate whether or not a 'medical error' that caused personal injury to a patient 'results from medical personnel negligently violating relevant laws, administrative regulations, rules, standards governing medical care, or ordinary practice' (Liebman 2013: 12). In practice, the review board consists of local doctors

who are likely to protect hospitals and colleagues, so this mechanism finds it difficult to obtain trust from patients.

Moreover, conflicts remain in the existing law and regulation governing medical disputes. Tort Liability Law of People's Republic of China, effective as of 1 July 2010, is designed to improve the ability of the courts to settle medical negligence and medical malpractice. But the State Council has not amended the 2002 Regulation, which should be made consistent with the Tort Liability Law (Chang 2010). This brings great confusion to medical malpractice litigation.

Finally, many local governments are attempting to create an alternative mechanism for medical disputes: the non-lawsuit model through third-party mediation (Zhao 2011). The new channel of dispute resolution which has been led by governmental authorities, People's Mediation Committees, professional organizations and insurance companies is an innovative solution designed to reduce tension between doctors and patients (Lan et al. 2009). However, the third-party mediation mechanism suffers from a series of problems, such as 'the lack of a sustainable supporting mechanism, unclear legal status of the mediation institutions and mediation agreements' (Zhao 2011: 401). Popularising this new method will not be an easy job in the near future.

Administrative mediation, medical malpractice litigation and third-party mediation are important aspects in painting a picture of institutional failure. The fact is that the current system is designed to protect hospital interests results in the lack of public trust in formal institutions, encouraging patients and their families to resolve their claims through aggression and disruptive behaviour (Liebman 2013). Meanwhile, the

Yi Nao gang, a new type of organized crime group, have emerged out of the power vacuum created by the absence of state protection and enforcement.

In order to deal with violence against medical professionals, many local hospitals form long-term cooperative relationships with local police departments (BBC 2010; Chi and Wang 2010; Hou 2010). However, this type of collaboration suffers from two problems. On the one hand, the involvement of police officers is not effective in practice, as police officers have to perform their duties in strict compliance with the law and choose to take action only if physical violence does happen. This means they usually do nothing if hospital violators disturb regular hospital orders without using physical violence. On the other hand, cooperation between hospitals and police departments is criticised by the public since police officers should focus on protecting lives and property of citizens rather than assisting hospitals in dealing with Yi Nao organized by patients who aim to protect their rights through informal means (Chi and Wang 2010; JCRB 2010). Consequently, unlawful protection supplied by laid-off workers, ex-prisoners and street gangsters who specialise in the use of soft violence has become the most effective strategy to settle the problems of Yi Nao.

To sum up, a thorough analysis of two cases illustrates the relationship between the failure of state institutions and the rise of the illegal protection businesses. It demonstrates that quasi law enforcement or extra-legal protection is a booming and profitable industry attracting great interest from the so-called 'urban underclass'—poor people. The exploration of this new type of criminal group helps researchers to grasp the trends in Chinese organized crime. The rise of unlawful protectors in post-Mao China encourages researchers to explore how private individuals and

entrepreneurs resolve disputes and protect rights by resorting to three types of protection and enforcement. It also poses theoretical challenges for the study of organized crime and the existing anti-organized crime strategy.

3. The uses of red mafia protection, black mafia services, and law enforcement

When three mechanisms (i.e. red mafia protection, black mafia services, and law enforcement) are available, the choice is determined by various factors. Chapter VI explains how private individuals and merchants employ guanxi networks to obtain private protection from government officials, and how officials distribute corrupt benefits through guanxi networks. The author's fieldwork in Qufu provides an opportunity to verify the fourth hypothesis, which posits that the buying and selling of black mafia services is determined by trust and reputation within guanxi networks.

Some interviewees are more likely to purchase services from unlawful protectors (e.g. street gangsters); while others do not think the purchase of extra-legal protection is a rational choice. It can be argued that the choice of the model of protection and enforcement depends on the resources businessmen possess. The prerequisite for the use of criminal protection is the creditworthiness of unlawful protectors that has been established by the level of trust and reputation in the guanxi network. In other words, the use of extra-legal protection has been greatly influenced by the guanxi resources (networks). The following examples are selected to explain how extra-legal protection (i.e. red mafia protection and black mafia services) and law enforcement are used to cope with government officials' extortion, solve the problem of being stalked, and enforce loan repayment.

3.1. Coping with government officials' extortion

Although local governments attempt to promote the efficiency, accountability and transparency of public administration, extortion by public officials is still a problem for most private enterprises (Dunfee and Warren 2001). Many people interviewed by the author are angry over government officials' illegal conduct, especially extortion by tax auditors. In China, there are no standard rules on how to prepare company accounts, especially for private companies, thus it is very easy for tax auditors to find faults with income tax if they wish (Chang 2011). Private companies with sound business performance are normally targeted.

Two types of counter-measures are applied by most entrepreneurs to confront government officials' extortion. The first strategy is the use of protection offered by street gangsters based on the guanxi network. Businessman AA tends to ask for help from his sworn brother (a reputable gang boss Z) to deal with the troubles brought by corrupt taxmen. A phone call from gang boss Z is enough to end the extortion activities. As businessman AA says:

'What they (tax auditors) want is money...if they find their activities will result in a terrible outcome like their families are threatened, all of them will stop their dirty businesses. Then they will turn their attention to any other companies. You see, earning extra money is so easy for them' (FGD D 2012).

The involvement of street gangs in fighting against extortion by the tax bureau is not unusual, where the political and legal system fails to clearly specify criteria which local governments must follow and to strictly enforce these criteria. The behaviours of these unlawful protectors include threatening phone calls, messages and

unwanted appearances at an official's home. Creating fictive kinship (e.g. sworn brothers) is an efficient way to reduce the uncertainties and strengthen mutual trust. As Wang et al. (2014: online) argue that 'being sworn brothers is a way to add sentimental components into guanxi and shorten the psychological distance between them'. The main cost of using a gangster's protection, suggested by businessman AA, is *ganqing touzi*, which refers to the investment in personal relationships to build a close or good guanxi with criminal protectors. *Ganqing* is defined by Wang (2007: 82) as 'refer[ing] to feelings and emotional attachment among members of networks, [which is] often an indicator of closeness of guanxi'.

The second strategy is the use of guanxi networks to secure protection from government officials. Businessman BB, who is an influential entrepreneur, is more likely to use his personal guanxi network with government officials to resolve extortion by taxmen. The reason why businessman BB refuses to purchase protection from gangsters is that street gangs are untrustworthy and purchasing illegal services from them will diminish his reputation in the local community. When he was asked whether his company experienced extortion by corrupt tax auditors, his answer was yes, but he suggested a different type of coping strategy:

'Last time the tax auditor showed up in my company, he found faults in the company books. My company was required to pay tax shortages: 2,000 RMB, which they found after a whole day's investigation. After payment, my subordinates and several auditors went to dinner together. I did not attend that reception. After expensive drinks and seafood, all the auditors said that despite finding a small problem in the company books, the accounting system of my

company was much better than that of other companies...sometimes I have to rely on personal relationships if drinks and food do not work. Last year, inspection by tax auditors was so frequent. They found new problems in my income tax every time. This meant what they wanted was more than drinks and small gifts... In order to stop their disturbances, I turned to my friend X who is the head of the local government. My friend X helped me organise a dinner with the head auditor. From then on, there were fewer troubles because they realised that I had a close guanxi network with the local government ... Inspection by tax auditors is very disturbing...the tax burden for private companies is huge, but we have to pay extra money for their drinks' (Businessman G 2012).

The background of these two businessmen may be useful to interpret why two wholly different types of counter-measures are applied. Businessman AA operates a medium-size enterprise which is one of the fastest-growing companies in the local community, while a private company owned by businessman BB is a leading enterprise which was owned by the local government and privatised in 2001. Businessman BB is also a member of the local people's congress. The social status of businessman BB has enabled him to establish social connections with local authorities; as a result, the guanxi network is regarded as the best strategy in preventing government officials' extortion. By contrast, businessman AA, who lacks a close guanxi with government officials, is more likely to use extra-legal protection as a governance mechanism.

3.2. Solving the problem of being stalked

Interview data further suggests that the possession of close guanxi with government agencies (red mafia protection) can be inadequate to meet the demand for protection. Resolving some kinds of disputes also requires those seeking help to employ guanxi networks with business friends and gang bosses. Here is an example of how a businessman solved the problem of being stalked.

Businessman CC, a successful entrepreneur, operates a private company which has been ranked as one of the largest construction firms in the city. The secret of his success is nothing more than the creation of close guanxi relationships with the local government. In 2012, businessman CC was stalked by unknown persons and received a series of threatening calls and messages. Using mobile phone surveillance systems, police officer DD, a good friend of businessman CC, provided the details of the persons (gangsters E and F) who made threatening calls. The police officer suggested that a face-to-face meeting with gangsters E and F was not a safe choice for businessman CC. Then a reputable gang boss, G, introduced by one friend of businessman CC, was invited to have a talk with E and F in order to find the person (businessman KK) who was responsible. After obtaining the information, the problem of being stalked (which was caused by a commercial dispute) was finally resolved when a middleman, M, was involved in the talks between businessmen CC and KK (Business F 2012). This is a perfect example of a complex web of connections (with police officers, businessmen and gangsters) successfully operating in a guanxi network.

Defining stalking is not easy. The concept suggested by Westrup and Fremouw (1998: 255) is: 'stalking denotes the unwelcome, repetitive, and intrusive harassing and/or threatening behavior directed toward a specific individual'. Similarly, Robert and Dziegielewski (1997) argue that:

'In stalking, an individual repeatedly engages in harassing or threatening behaviors to another individual. These behaviors can and often do take the form of threatening phone calls, messages, vandalism, or unwanted appearances at a person's home or workplace.' (p. 361)

In China, legal sanctions and laws to protect the victims of stalking have been criticised as lacking. Stalking has not received a great deal of attention from the media and law enforcement agencies. Similarly, the fieldwork data suggests that police officers fail to protect citizens from the threat of stalking. Victims of stalking who seek public protection from the legal system are often informed by state authorities that a police officer's duty to intervene does not arise until the perpetrator has harmed them physically (Bradfield 1998). This results in two unintended consequences. On the one hand, stalking becomes the most effective means of enforcement applied by criminal groups, especially unlawful enforcers. For example, most 'nail households'—people who refuse to relocate—will agree to change their residences after the experience of being stalked. On the other hand, victims of stalking who lack public protection have to purchase black mafia services, facilitating the rise of the criminal protection industry.

3.3. Debt collection mechanisms: how do underground banks enforce loan repayment?

The existing literature suggests that informal financial institutions can substitute for formal financial systems (Chen and Touve 2011; Tsai 2007). Informal lending institutions in China can be divided into two main types: 1) interpersonal lending (*minjian jiedai*) which is 'largely legal and very commonly used by among entrepreneurs' (Ayyagari et al. 2010: 3054); 2) informal lending by private money houses and underground banks that 'charge very high interest rate above the state-mandated interest rate ceilings and are thus banned by the People's Bank of China' (*Ibid*).

Underground banks are illegal but active in China's coastal provinces where private firms prosper (Tsai 2004). Their illegal status makes underground lending organizations reluctant to resort to state-sponsored monitoring and enforcement mechanisms. Underground lending organizations, therefore, are more likely to 'rely on trust, reputation or coercion and violence for payment of loans' (Ayyagari et al. 2010: 3055). Trust and reputation in the *guanxi* network are inadequate for underground lenders to recover all their loans. That is to say, underground loan sharks cannot prosper without the private protection and enforcement of criminal groups. The following paragraphs analyse how the debt collection mechanisms of underground banks work.

Step one: urging the debtor to fulfil his debt through guanxi practice. It is impossible for strangers to get a loan from underground banks. Access to underground lenders is usually based on networking through common friends (Ayyagari et al. 2010; Yu

2010a). When the payment is overdue, the introducer becomes the first enforcer to persuade the debtor to fulfil his responsibility. In order to promote the effectiveness of enforcement, false rumours such as 'XX is untrustworthy' will be spread among the debtor's friends and family members. In this case, failure to fulfil an obligation is closely associated with losing face (*mianzi*) (FGD D 2012; FGD E 2012). *Mianzi*, defined as 'the recognition by others of an individual's social standing and position', is the core element of Chinese culture (Buckley et al. 2006: 276). In order to protect his *mianzi* or dignity, the debtor tends to make the loan payments.

Step two: the involvement of debt collectors (street gangsters) in claiming loans from debtors. Underground banks usually hire debt collectors—most of whom are gangsters—to claim loans from debtors if *guanxi* practice does not work (Manager D 2012). Stalking, coercion and violence are major means of enforcement employed by debt collectors. However, the involvement of unlawful enforcers may be not effective in some situations, such as when the debt collector is the mutual friend of both moneylender and debtor (FGD E 2012). The debt collector will lose his *mianzi* or prestige if he carries out enforcement duties regardless of the existing *guanxi* relationships. The failure of criminal enforcement compels moneylenders to resort to the courts.

Step three: debt recovery through the courts. Although underground banks are not sanctioned by the government, the loan contract signed by both parties is sufficient for underground moneylenders to recover their debts. The information about high interest rates is not included in the contract, but the amount of money in the loan contract is a total of principal and interest (FGD C 2012). Even if the judges decide in

favour of the plaintiffs, but debt recovery is much slower than the use of debt collectors. For this reason, resorting to the courts is usually regarded as not the preferred choice.

To sum up, the fieldwork data discusses how entrepreneurs in China obtain reliable extra-legal protection through guanxi practice, which presents a possible method for estimating the scale and seriousness of the criminal protection market. Illegal protection offered by the Red Mafia and quasi law enforcement supplied by the Black Mafia are widely used to prevent government officials' extortion, defend themselves against stalking and improve the efficiency of debt collection. The data suggest that both the Red Mafia and the Black Mafia play a complementary role to the formal legal system by providing quasi-governmental services to those in need. Stalking, coercion and soft violence are means and resources employed by the Black Mafia in the provision of criminal protection (or extortion) when laws and legal sanctions fail to protect victims. Interview data also shows that the purchase of extra-legal protection by entrepreneurs is largely based on trust and reputation in the guanxi network.

On one hand, guanxi practice facilitates entrepreneurs—especially illegal entrepreneurs—to purchase illegal services offered by criminal groups. On the other hand, the guanxi network sometimes makes mafia services ineffective, for example, criminal enforcers who are invited to enforce loan repayment belong to the same network as the debtors. Under such circumstances, illegal entrepreneurs have to resort to the legal system as the illegal enforcement actions may be strongly influenced by existing guanxi networks. In a departure from this part that aims to

provide the logic of using extra-legal protection businesses in China, the following section focuses on theoretical challenges posed by the study of extra-legal protection. These challenges urge criminologists to reconsider the definition of organized crime and to revise the widely-accepted interpretation of Chinese black societies.

4. The rise of the Black Mafia: questioning existing stereotypes about organized crime

4.1. Soft violence: a new defining characteristic for Chinese organized crime?

Criminologists have selected a set of primary and secondary characteristics to define the concept of 'organized crime'. Among them, the use of violence or threats of violence has been generally accepted as an important dimension of organized crime (Alach 2011; Finckenauer 2005; Hagan 2006; Schelling 1971; Varese 2010a; Von Lampe 2006). As Hagan (2006) argues:

'What is essential to the definition of organized crime is the ability to use, and the reputation for the use of violence or the threat of violence to facilitate criminal activities, and in certain instances to gain or maintain monopoly control of particular criminal markets.'(p. 134)

Violence has also been identified by most Chinese criminologists and legal practitioners as one of the defining features of organized crime groups (He 2009b). However, the changing macro socio-economic environment encourages organized crime groups to adopt new strategies to facilitate criminal activities and achieve

criminal profits (Ayling 2011). Since the beginning of the 1980s, the dramatic rise in violent and other serious crime has seriously threatened China's social stability (Xia 2006). In order to restore public order in post-Mao China, the Chinese central government launched three rounds of Yanda—literally, 'strike hard'—through anti-crime campaigns in 1983, 1996 and 2001 (Broadhurst 2013; Trevaskes 2012). Moreover, local government authorities have organized a series of Dahei—literally, 'hit or strike black'—through anti-gang campaigns (Lam 2012; Wedeman 2012b). Both Yanda and Dahei target violent and other serious crime such as intentional injury, murder, robbery, and "quarrelling and fighting" (*douou*).

The Chinese style of policing serious crime shows that the use of violence brings great risks to the survival of criminal groups. Where the expected costs of a violent action are high, criminals, including quasi law enforcers, tend to produce and sell their unlawful commodities and services without resorting to violence or aggressive behaviours (Liu 2010; Zhao 2012). Soft violence or coercion, therefore, is becoming the key feature of Chinese organized groups, especially these involved in the provision of unlawful protection (Li 2011a; Zhou and Zhao 2011). This argues against the existing understanding of organized crime, which regards the use of violence as one of the most important characteristics.

Criminal groups who specialise in the use of soft violence enjoy comparative advantages over violence-based organized crime groups. In contrast with physical violence, soft violence is a type of psychological abuse that can influence or control

the inner choices of victims.⁴⁸ It can force them to make decisions unfavourable to themselves because the soft violence causes psychological trauma, including anxiety, chronic depression, dissociation and anger. By using soft violence, or organized coercion, criminals not only obtain substantial profits from their illegal activities but also significantly reduce the risk of being caught and punished by the law (Zhao 2012). As a result, soft violence has become one of the most cost-effective means applied by many criminal groups in contemporary China.

4.2. Corruption: a defining characteristic for the Black Mafia?

Corruption of government officials, especially those from the criminal justice system, is a major characteristic of most organized criminal groups (Finckenauer 2005). The existing literature on Chinese organized crime emphasises the significance of the links between government officials and criminals in the resurgence of black societies in China (Broadhurst 2013; Chen 2005; Chin 2003; Chin and Godson 2006; Xia 2004). After the establishment of the 'political-criminal nexus' (the collusion between the criminal underworld and the political establishment), various kinds of criminal protection will be offered by corrupt officials (Antonopoulos 2013). As Wang (2013b: 20) suggests:

'[Favours provided by the political establishment includes] protection against extortion conducted by public officials, protection of criminal businesses,

⁴⁸ Gang bosses who have established reputation in the criminal underworld are often invited by people of their guanxi networks to resolve disputes and enforce loan repayment. The use of soft violence does not mean criminal enforcers are less capable in using physical violence; rather, extra-legal enforcers who specialize in the use of soft violence normally have a reputation for the use of physical violence.

protection against police harassment, protection against criminal investigation and protection against legal punishment.’

In response to this dangerous collusion, China’s anti-crime campaigns have focused on two aspects: curtailing corruption (‘protective umbrella’) and reducing organized crime (He 2009b). However, the existing anti-crime and counter-corruption measures fail to identify and reduce the growing criminal protection industry, as the political-criminal nexus is not a key factor for the existence of extra-legal protection groups. Most illegal businesses, such as gambling and prostitution, need illegal protection from corrupt government officials because they face a high risk of imprisonment. Purchasing protection from police officers is an unnecessary investment for most extra-legal protection groups as they are able to stay safe even during crime crackdowns (Li 2011a). This encourages many illegal entrepreneurs to reallocate capital from traditional areas, such as gambling or prostitution, to a highly profitable and low risk business—the provision of private protection (Zhao 2012).

By using soft violence, unlawful protectors provide governmental services for illegal entrepreneurs in the criminal underworld and offer quasi police emergency services for citizens, all of which seem beneficial to the societies. Hence, to date China does not have any clear laws or regulations dealing with the problem of soft violence (Liu 2010). It thus creates the very conditions that are favourable for the formation of these unlawful groups. Even for these criminal groups that get their main source of income through the business of assisting local authorities in resolving stubborn ‘nail households’, the existing literature suggests that corruption of police officers is not necessary (Zhao 2012). The reason why local governments and real estate

developers purchase illegal services (quasi law enforcement) offered by unlawful protectors is their reputation for soft violence.

Guanxi also plays a significant role in the buying and selling of private protection. Unlawful enforcers popularize their services by utilizing their guanxi networks with real estate developers and local authorities. This type of guanxi network is, however, different from corrupt guanxi networks created between traditional crime groups and police officers. The former, like business guanxi, is used to seize business opportunities, while the latter is built to obtain illegal protection from government officials.

5. Conclusion

In contemporary China, criminal protection organizations, using intimidation, harassment, stalking or organized coercion, and backed up with the threat of violence against property and persons, are thriving. The existence of underground police organizations and the provision of hospital security by unlawful protectors strongly challenge most criminologists' perception of Chinese organized crime. Soft violence, organized coercion and stalking make the provision of extra-legal protection a profitable and relatively safe business. Both fieldwork data and the existing literature indicate three important trends in the evolution of criminal groups in contemporary China. First, the booming criminal protection market involves a large number of laid-off workers and peasant migrants, which means providing illegal protection or participating in unlawful enforcement has become an important way for marginalised people to survive. In a sense, it may be rational to describe this as a form of employment or labour. Second, more and more criminal groups have

shifted their illegal businesses from traditional areas such as prostitution and gambling to the provision of protection and enforcement in legitimate sectors of the marketplace in order to avoid being destroyed during China's anti-crime campaigns. Third, criminal groups that have established their reputation in the criminal underworld are more likely to expand their businesses to new areas like producing, selling and distributing private protection. For example, street gangs are involved in the majority of demolition projects. Assisting local authorities in solving the problem of 'nail households' not only brings generous profits to street gangs, but also makes a great 'contribution' to China's urbanisation.

Protection supplied by criminal groups remains a social evil (Varese 2013b). Extra-legal protection groups not only protect legitimate market participants but also sell protection and enforcement services to other criminal groups, thereby promoting criminal activities such as illegal gambling, theft, frauds, counterfeiting, robbery and extortion. Consistent with the third and the fourth hypotheses generated in chapter VI, this chapter shows that China's weak legal system prompts private property owners to seek protection and enforcement sold by the Black Mafia, and the buying and selling of quasi law enforcement is based on trust and reputation in the *guanxi* network. In addition to buying unlawful services, the use of black mafia services requires purchasers to invest in 'personal affection' and 'friendship' in order to establish a high level of trust. Extra-legal protection or quasi law enforcement is therefore a luxury item because developing and/or maintaining *guanxi* with unlawful enforcers costs time, energy and money, all of which are limited resources.

A more intractable problem in quasi law enforcement is the potential for extortion. If unlawful enforcers develop expertise and ability in the use of soft violence or organized coercion, the incentive for extortion is great. This potential discourages people who do not have guanxi relationships with criminal enforcers to purchase extra-legal services. This is the reason why many entrepreneurs interviewed by the author indicated that they would abandon their claims if the executive branch failed to enforce court decisions rather than asking for help from street gangsters. However, in the absence of functional legal or law enforcement systems, people without connections with unlawful enforcers may start to develop guanxi relationships with these criminals and rely on the use of extra-legal protection to prevent government officials' extortion, defend themselves against stalking (or organized coercion) and improve the efficiency of debt collection.

Chapter VIII Conclusion

In February 2012, southern China's Guangdong Province, under the leadership of its party chief Wang Yang, launched a high-profile campaign against organized crime and commercial bribery. This campaign was officially called 'three strikes' (*sanda*), which refers to a 'war' against three main types of criminal activities: the monopolization of markets through violence and fraud, counterfeiting, and commercial bribery (Xinhua 2012c). Guangdong's 'three strikes' emphasizes the importance of fighting against 'protective umbrellas' (corrupt government officials) and corrupt *guanxi* networks that enabled locally-based criminal groups to flourish. The aim of this massive campaign, as the Guangdong government stated, was to achieve 'two constructions' (*liangjian*): building trust and establishing a more effective supervision of socialist market (Xu 2012).

From the start of the 'three strikes' in February 2012 through to 8 June 2012, a total of 2,723 cases of commercial bribery were investigated. These cases involved 1,070 party members and government officials, including 28 high-ranking and 123 mid-level officials. On 15 August 2012, the Guangdong government revealed that a total of 1931 government officials, including 132 middle- and high-level officials, had been arrested for their involvement in the supply of extra-legal protection to locally-based crime groups and illegal entrepreneurs (Lan 2012).

The Guangdong ‘three strikes’ shows the increasing intertwining of organized crime, *guanxi* and corruption, which even threatens the legitimacy of the Chinese Communist Party. Comparing the two most influential crime crackdown campaigns organized by local governments, it can be argued that Bo Xilai, who led the Chongqing crime crackdown, and Wang Yang, the man behind Guangdong’s ‘three strikes and two constructions’, adopted a similar strategy—a war against organized crime and corruption—to establish a nationwide reputation. They chose this path because anti-crime and anti-corruption campaigns are the most effective way to establish a party chief’s reputation, helping to earn seats on the Central Politburo Standing Committee of the Communist Party of China. Party chiefs who lack political ambitions or strong support from the central government, however, find it extremely difficult to achieve success in the campaign against organized crime and corruption because *guanxi* networks offer secrecy and safety to their ‘club members’ (e.g. government officials, illegal entrepreneurs and gang bosses) and putting an official behind bars requires a crackdown on one’s own *guanxi* networks.

The recent crime crackdown campaigns offer valuable material for researchers wishing to examine corrupt networks within public sectors and the involvement of street gangsters as unlawful enforcers. The study of extra-legal protection (red mafia protection and black mafia enforcement), however, suffers from serious methodological limitations caused by politics, culture and language. On the one hand, scholars from overseas institutions find it extremely difficult to gain access to government records and interviewees in mainland China, because organized crime has been considered a politically sensitive issue that is closely associated with public

corruption. On the other hand, Chinese criminologists who can obtain police records and court files through the use of guanxi networks show less interest in getting published in English language journals. Furthermore, language barriers not only prevent western scholars from accessing Chinese language materials but also stop most Chinese criminologists disseminating their theories and findings to foreign countries.

This thesis contributes to the understanding of Chinese organized crime and extra-legal protection in three ways. First, it examines historical aspects of Chinese organized crime including a detailed description of brotherhoods and secret societies in the Qing Dynasty, the Chinese mafia in the period of the Republic of China, and the resurgence of Chinese organized crime in contemporary China (chapter II). Until recently, only a few publications looked into the history of secret societies and the resurgence of organized crime in the post-Mao era (also see: Chen 2005; Xia 2006). The in-depth historical analysis provided by this thesis is thus useful for researchers and legal practitioners wishing to obtain a thorough understanding of Chinese organized crime.

Second, it offers the first theoretical and empirical research on China's extra-legal protection, an important but hitherto-unexplored area of research. A critical review of existing literature suggests that organized crime groups earn illicit benefits by engaging mainly in 'traditional' businesses such as gambling, prostitution, loan sharking, illicit drug distribution, robbery and counterfeiting. The extant research, however, fails to present the whole picture of Chinese organized crime. Based on the mafia literature and fieldwork data collected from two Chinese cities, this thesis

complements the existing research by suggesting that the Black Mafia plays an important role in the supply of private protection for both legitimate and illicit markets (chapter VII). Moreover, in order to explore why and how the Black Mafia has emerged in contemporary China, this thesis incorporates guanxi theories in the discussions of state weakness and the rise of extra-legal protectors (chapters V and VI). It offers a deeper understanding of the coexistence of guanxi and the formal legal system and of the negative side effects of guanxi.

Third, this thesis, in contrast with past research, demonstrates that the provision of criminal protection is no longer the exclusive domain of organized crime groups. Corrupt government officials, named the 'Red Mafia' in this thesis, have colonized this territory (chapter VI). High-ranking government officials distribute corrupt benefits through their guanxi networks; selling government appointments and involvement in rent-seeking activities are their major activities. Mid- and low-ranking government officials who want to obtain such benefits have to apply other methods. For example, law enforcement officers tend to make large amounts of money by associating with locally-based criminals and illegal entrepreneurs who are also eager to establish close guanxi networks with law enforcers. This thesis stresses the role of guanxi networks in facilitating corrupt transactions by linking the favour seeker and the favour giver and establishing a secret channel for public officials and organized crime groups.

This thesis is fortunate to be able to count on Gambetta's and Varese's research, which has led to new insights and inspired a new theory. It is pertinent to discuss how this thesis benefits from Gambetta's research into the Sicilian mafia and

Varese's study of the Russian mafia, to compare the ways in which extra-legal protectors in China differ from other long-standing mafias, and to clarify to what extent the study of Chinese extra-legal protection contributes to the body of knowledge. The remainder of this chapter is divided into three sections. The first briefly reviews the Sicilian model of mafia emergence. In the second, the author examines the applicability of the Sicilian model when it is used to interpret the rise of Chinese-style criminal protection groups, and suggests a Chinese model of mafia emergence. The final section discusses directions and implications for research and policy.

1. The Sicilian model of mafia emergence

There is no doubt that *The Sicilian Mafia* (1993) has become the single most influential book in the field of the economic theory of organized crime. The theoretical framework suggested by Gambetta has been applied by several scholars to interpret the rise of the criminal protection organizations in very different parts of the world. As Gambetta (2011) himself argues:

'[T]he book has had some success at influencing several studies that have taken its approach further in a number of directions, both theoretical and empirical... for example, Yiu Kong Chu (2000) has worked on the Triads in Hong Kong; Federico Varese (2001) and Timothy Frye (2002) on the emerging Mafia in post-Soviet Russia; Curtis Milhaupt and Mark West (2000a) and Peter Hill (2003) on the Yakuza in Japan; and Marina Tzvetkova (2008) on the Bulgarian emerging protection market' (p. 6).

Moreover, Gambetta's book contributes to the development of a number of other areas of research such as mafia transplantation (Varese 2006, 2011a), mafia diversification (Campana 2011a), prison gangs (Skarbek 2011), youth gangs (Sobel and Osoba 2010), and the study of extra-legal governance (Dixit 2003, 2004). Gambetta's innovative research on the mafia in Sicily was published 20 years ago. It is now time to reconsider the importance of the Sicilian model of mafia emergence.

One of Gambetta's most insightful discoveries relates to the defining feature of the mafia: the commodity mafia groups provide is not violence, but protection (Gambetta 1993; Varese 2013b). According to Gambetta, the mafia is considered a special type of organized crime group that specialises in producing, selling and distributing private protection (Gambetta 1993). Drawing on the research into the Sicilian mafia, Varese defines the phenomenon of organized crime as one form of economic governance, 'the set of rules and norms that regulate exchange' (Varese 2010a: 14). According to Varese (2010a), 'an organized crime group attempts to regulate and control the production and distribution of a given commodity or service unlawfully' (p. 14), while 'a Mafia group is a type of organized crime group that attempts to control the supply of protection' (p. 17). The difference between a mafia group and a drug syndicate is clear: the former attempts to control the supply of criminal protection and extra-legal enforcement rather than the drugs controlled by the latter (Gambetta 1993). The clear distinction between mafia and organized crime offers a solid theoretical foundation for further research.

Another of Gambetta's significant contributions is the discussion of the relationship between mafia emergence and distrust. The origin of the Sicilian mafia is explained

by Gambetta as a perverse response to the lack of trust in southern Italy in the early nineteenth century (Gambetta 2000a). Endemic distrust is identified as the key point to explain why the mafia emerged in southern Italy rather than elsewhere in the country (Gambetta 1993). Mafias are able to facilitate market exchanges among participants who distrust each other by enforcement of deals and promises (Gambetta 2000a; F. Varese 2006). Moreover, the mafia has thrived for centuries by continuously injecting 'distrust into the market to increase the demand for the product [it] sells—that is, protection' (Gambetta 2000: 173).

The third and the most significant contribution made by Gambetta is the establishment of the valuable theory named by Varese as the 'property rights theory of mafia emergence' (Varese 2011a). Two fundamental issues are identified when Gambetta interprets the origins of mafia: the demand for protection and the supply of the same. As Gambetta (1993) argues, all illegal business transactions need a certain type of protection and enforcement, otherwise exchanges will not occur. This implies that demand for extra-legal protection remains constant in illegal markets. Moreover, the failure of the state to provide sufficient and efficient protection to legitimate entrepreneurs and individuals results in the demand for mafia protection in legal markets (also see: Varese 2001).

For example, the abolition of feudalism in 1806 in the continental South and in 1812 in Sicily, and the widespread introduction of private property rights, resulted in a dramatic increase in demand for protection (Gambetta 1993). The presence of the state failed to protect newly-established private properties, forcing property-owners to seek alternative forms of protection. Gambetta (1993) emphasised that the mafia

is not the only solution because protection suppliers also include a paramilitary organization, a private security company and the elder of a tribe. But market participants normally choose the strongest supplier; this is not necessarily the cheapest, but one that offers ultimate guarantees in the area (also see: Nozick 1974).

In areas like rural eastern Sicily, where traditional elites were present and united, these elites were able to meet the growing demand for protection. In western Sicily, however, a new industry consisting of people trained in violence and specialising in the supply of private protection began to emerge in the first half of the 19th century (Gambetta 1993). The 'supply-demand' model of mafia emergence has become a general theoretical framework for the examination of extra-legal protection groups in many transitional countries (Varese 2001). The mafia functions as a substitutive informal institution that achieves what formal institutions are designed, but fail, to achieve, for example, the private protection of private property rights and the facilitation of transactions.

As mentioned above, Gambetta's and Varese's research on mafias establishes sound theoretical and empirical foundations for the economic theory of organized crime. The great success of the Sicilian model has stimulated researchers' interest in exploring the question: can the Sicilian model of mafia emergence be applied to interpret the origin of the mafia phenomenon in post-Mao China? Gambetta himself argues that his theory might be useful to predict the rise of secret societies (e.g. the Shanghai Green Gang) before 1949, but it is not able to interpret the rise of extra-legal protection in contemporary China.⁴⁹ This is because the historical conditions

⁴⁹ Diego Gambetta, personal communication, e-mail message to author, 4 June 2013.

that gave rise to the growth of the Sicilian mafia do not apply to post-Mao China. The Sicilian mafia and the Russian mafia emerged when there was no strong government, while China is different: the party-state is very strong. In this case, Gambetta's theory is neither right nor wrong when applied to China. This encouraged the author to establish a new theory taking into account China's local conditions.

Strong as it is, however, the Chinese state is not strong enough to curtail rampant corruption within the public sector. Moreover, it fails to protect government officials from the demands of guanxi networks. The exploration of guanxi and law in chapters V and VI offers a clear picture of extra-legal protection as it operates in contemporary China.

2. The emergence of extra-legal protection with Chinese characteristics

Drawing on published materials and fieldwork data, this thesis contributes to the existing literature by proposing the 'socio-economic theory of mafia emergence', which incorporates Granovetter's argument on social embeddedness into Gambetta's 'property rights theory of mafia emergence'. To be specific, Gambetta's theory demonstrates that individuals and merchants in both legal and illegal markets tend to choose the strongest supplier, contributing to the development of a certain type of protection (e.g. the mafia). This theory, however, does not explain why people, in environments characterized by the absence of trust, trust criminals. The theory of social embeddedness suggests that all economic behaviours (e.g. the purchase of illegal goods and services) are embedded in networks of continuing social relations. In the Chinese context, it is important to examine how social action is embedded in guanxi networks.

Drawing on the theory of embeddedness and the guanxi literature, this thesis explores the social embeddedness of two types of activities: judicial and police activities, and the choice of preferred model of protection. In China, the embeddedness of judicial and police activities in guanxi networks facilitates the emergence of collective corruption and the rise of state-illegal protectors, i.e. the Red Mafia. The growth of the Red Mafia is a key feature of state weakness. As this thesis argues, the Red Mafia is not the sole supplier in the extra-legal protection market, as people who are unable to obtain red mafia protection tend to purchase black mafia enforcement. Furthermore, the buying and selling of private protection is dictated by trust and reputation within guanxi networks.

2.1. The role of guanxi in the emergence of the Black Mafia

The existing research on mafia emergence has generally been limited to examining the substitutive relationship between the state and the mafia. This thesis, on the other hand, expands the research to incorporate the concept of guanxi—a Chinese variant of social capital—in the discussion of state weakness and the rise of private-illegal enforcers (the Black Mafia). To be specific, it demonstrates the corruption-facilitating roles of guanxi, i.e. how guanxi distorts China’s legal system by substantially decreasing both the effectiveness and efficiency of the enforcement of laws (see Chapter V and VI) and promoting the formation of corrupt guanxi networks between locally-based criminals and government officials (see Chapter VI). This thesis also shows the mafia-facilitating roles of guanxi (see Chapter VII); the clash between guanxi and the formal legal system makes law enforcement agencies

unable to provide sufficient and efficient protection for citizens, contributing to the rise of the Black Mafia (e.g. underground police organizations).

The Sicilian model emphasises the relationship between state failure and mafia emergence. The case of China, however, illustrates the way in which this dominant theoretical framework oversimplifies the mechanism of mafia emergence. To be specific, the Sicilian model misses an important aspect of what makes potential customers believe mafia groups are willing to and have the ability to provide high quality, reliable and trustworthy services. Unlike normal market transactions, there are strong uncertainties about both the price of these illegal transactions and their results. That is to say, why do private property owners, in a post-Mao China characterised by the absence of trust, place their trust in criminal groups?

The buying and selling of extra-legal protection or quasi law enforcement services indeed requires a mechanism to reduce illegal transaction costs, guarantee quality of services and punish violators. In contrast to past research on the mafia, which has typically ignored the role of social capital in reducing transaction costs associated with the extra-legal protection market, this thesis establishes that how guanxi networks facilitate trust and promote illegal commodity exchanges.

Chapter VII demonstrates that guanxi and black mafia enforcement are frequently used by private individuals and entrepreneurs to prevent government officials' extortion, defend against stalking and improve the efficiency of debt collection. It shows that the purchase of extra-legal protection by entrepreneurs is largely based on trust and reputation in the guanxi network. The use of extra-legal protection requires purchasers to invest in 'personal affection' and 'friendship' in order to

establish a high level of trust. Extra-legal protection or quasi law enforcement is therefore a luxury item because developing and/or maintaining guanxi with unlawful enforcers costs time, energy and money, all of which are limited resources. Moreover, chapter VII suggests that soft violence has become the main weapon used by private-illegal protectors. The use of soft violence enables these unlawful protectors to stay safe as the police choose not take action unless physical violence occurs.

Using guanxi in the extra-legal protection market can be a double-edged sword: on the one hand, it guarantees the quality of mafia services, and thus induces individuals or entrepreneurs to purchase extra-legal protection. On the other hand, the guanxi network sometimes makes mafia services ineffective, for example when criminal enforcers who are invited to enforce loan repayment belong to the same network as the debtors, which would makes enforcement extremely difficult.

This thesis recognizes the growth of private legal security companies, analyzed by Trevaskes (2007) and Zhong and Grabosky (2009). Private policing is a very strong competitor of the Black Mafia in China's private protection market, but the rise of private legal security falls beyond the scope of this thesis. The role of private legal security and its nexus with extra-legal protectors deserve further research.

2.2. The Red Mafia

This thesis aims to examine a different enforcement system—the Red Mafia—which performs the same function as the Black Mafia but in a different way. As the existing mafia literature demonstrates, the mafia—the main player in the criminal protection market—attempts to control the supply of private protection. Empirical data from

China, however, suggests that organized crime groups are no longer key suppliers; instead, corrupt government officials, especially those from the criminal justice system, are invading and beginning to control this profitable business (chapter VI).

The Red Mafia consists of a large number of corrupt government officials in mainland China who behave like mafiosi and regard the provision of criminal protection as their main source of income. As is well documented, corruption is a serious problem in China (Pei 2009; Steidlmeier 1999; Sun 2004). Most middle- and high-ranking government officials obtain corrupt benefits by engaging in buying and selling public appointments and affiliating with wealthy businessmen (Ngo 2008; Zhu 2008). Law enforcement officers, especially mid- and low-level police officers, who want to achieve such benefits tend to associate with criminals.

This thesis adopts a broad definition of 'protection'. That is to say, protection offered by the Red Mafia refers to 'corrupt benefits' that are normally distributed through guanxi networks. The existing literature suggests that economic reforms result in a surge in corruption, the form of which has shifted from plunder to transactive corruption wherein corrupt officials sell favours to private actors seeking profit-making opportunities (Wedeman 2012a). Protection, in this thesis, is not limited to favours exchanged between government officials and private individuals but extends to 'corrupt benefits' distributed within public sectors.

The analysis of the Chongqing crime crackdown confirms that government officials' invasion of the criminal protection market leads to the expected outcome: locally-based criminal syndicates who establish guanxi networks with police officers are not only able to monopolise the illegal markets but also able to remain safe even in

crime crackdown campaigns, while criminal groups who fail to obtain protection from government officers will either be expelled from the market or be destroyed by anti-crime actions. When a corrupt guanxi network is established, mid- and low-ranking law enforcement officers make exchanges directly with locally-based criminals. In order to secure their positions, avoid punishment, or obtain promotions, lower-level officials tend to bribe higher-level officials in their guanxi networks with money and expensive gifts. In response, high-ranking officials have to return favours to their bribers, for example turning a blind eye to their subordinates' protection business. When low-level officials lack the ability to shelter these criminals, higher-ranking officials do it instead. This is because failure to follow the rules of reciprocity in a guanxi-based relationship will result in the loss of face and being viewed as untrustworthy.

Unlike violence that has been considered by mafia groups as the most important resource in producing and selling private protection, the abuse of legal powers becomes the key resource for the Red Mafia. The abuse of public powers in China is caused by cultural and ideological factors including 'the lack of an entrenched legal culture in the rule of law, the absence of an ingrained constitutional spirit in limited government and the emergence of pragmatism as a political ideology' (Wong 1998: 87). The Red Mafia manages to obtain wide-ranging illegal benefits by increasing the benefits of participation and raising the cost of refusing to participate.

2.3. Guanxi practice as a social evil

Guanxi, as most scholars argue, is a neutral word in Chinese. For example, Shang et al. (2012) argue that guanxi as a power source itself is neutral; it is thus not right for

scholars (for example: Chen and Chen 2012) to separate good guanxi from bad. Shang et al. (2012: 438) further explain that 'it is what guanxi is used for and how it is used that leads to good and bad results'. Similarly, Chen and Chen (2004a: 312) point out that 'the quality of guanxi is a neutral term describing the subjective judgment made by the guanxi parties regarding the current state of their guanxi'.

Guanxi may be morally neutral, but 'the consequences of guanxi [practice] can range from benign, neutral, to questionable and corruptive' (Fan 2002b: 378). As Chen et al. (2004: 201) argue, 'guanxi practices become problematic when favour exchanges involve the personal use of formal organizations' collective resources'. The exchange of gifts, favours and banquets are normal ways of creating and maintaining guanxi networks in private domains of life (Yang 2002). However, in the absence of effective law regulating gift exchanges made by officials, the importance of *mianzi* (face) and *renqing* (affection) encourages or even forces government officials to use their positions to drain off public resources and sell them to those with whom they have close guanxi ties (Chen et al. 2004; Park and Luo 2001; Zhan 2012). This brings benefits to corrupt exchange participants at the expense of others, such as competitors or the general public (Fan 2002b). Under such circumstances, inappropriate practice of guanxi erodes the arm's-length principle which states that personal relationships—such as friendship or kinship—should not play any role in the decision-making of government officials (Fan 2002b). Furthermore, guanxi practice/manipulation, as this thesis demonstrates, inevitably violates the rule of law when judicial decision-making is embedded in guanxi networks.

On the one hand, legitimate and illegal businesses that demand capital or protection always employ guanxi networks to obtain what they need from power holders. Corrupt officials, on the other hand, rely on guanxi ties—the safe and secret channel—to distribute benefits in order to earn under-the-table income. Transactive corruption proliferated as reform deepened (Wedeman 2012a), so the negative influence of guanxi practice on the formal legal system is growing. For example, scarce material resources are allocated through guanxi networks rather than according to government policy and regulation. Public appointments or promotion opportunities are distributed to members in corrupt officials' networks rather than through fair competition (chapter VI). Unlawful protection is offered by corrupt police officers to gang bosses with whom they have close guanxi relationships, while other criminal or illicit entrepreneurs who do not possess guanxi resources suffer from greater risk of being destroyed by anti-crime campaigns (Wang 2013b).

In most circumstances, the rules of guanxi, such as reciprocity and equality, urge private individuals and government officials to get things done regardless of the arm's-length principle and the rule of law. A government official or a law enforcer embedded in social networks feels obliged to offer favours to the people in his network, and to distribute corrupt benefits to these who are closer to him (Zhan 2012). Guanxi in contemporary China has gradually transformed from substitutive to complementary and finally to corrosive informal institution.

To sum up, the study of extra-legal protection in China needs to take into account local conditions, e.g. the co-evolution of guanxi networks and the legal system. That means this thesis cannot simply apply Gambetta's theoretical framework. The

examination of this dual order system provides a new insight into the understanding of state weakness and the rise of extra-legal protectors. Take the Chongqing case for example: guanxi has become a key strategy for both parties: locally-based criminal syndicates make use of guanxi to obtain protection from law enforcement agencies; government officials employ guanxi to engage in illegal activities, such as rent-seeking and the buying and selling of offices, to achieve corrupt benefits. In addition, the buying and selling of mafia services (red mafia protection and black mafia enforcement) is largely based on trust and reputation within guanxi networks.

3. Conclusion and recommendations

The conclusion will touch upon three areas: the Chinese model of mafia emergence, recommendations for future research and policy recommendations.

3.1. Chinese model of mafia emergence

Gambetta's theoretical framework succeeded in applying the law of supply and demand, one of the fundamental principles governing an economy, to explore the emergence mechanism of the Sicilian mafia. Based on extensive empirical research in post-Soviet Russia, Varese pioneered the development of Gambetta's framework by applying the mafia theory across countries. The traditional model of mafia emergence, however, neglects the importance of social capital in the process of mafia emergence. This thesis develops a new theoretical framework by incorporating the concept of guanxi – the most important Chinese variant of social capital—into the discussion of state weakness and mafia emergence. It further establishes that the Red Mafia, consisting of corrupt government officials, has developed into the

most influential protection agency in China, which contradicts the traditional view that organized crime groups are the main suppliers in the criminal protection market.

3.2. Recommendations for future research

The further development of the new theoretical framework requires researchers to adopt a more clearly comparative approach. Gambetta's theoretical framework has been used to interpret the mafia phenomenon in other countries (or areas) such as post-Soviet Russia, Japan, Hong Kong, and Bulgaria. It is worth examining how social capital in these countries (or areas) exerts influence on the rise of the mafia, and to compare the different roles social capital plays in its origins. If further research on the origins of well-established mafias in other countries arrives at a similar conclusion, that social capital appears to encourage corrupt behaviours and facilitate mafia emergence, the new framework will become a universally-accepted theory. If further research demonstrates social capital has less impact on the rise of mafias in other parts of world, it may suggest that the intertwinement between social capital (guanxi) and mafia emergence is a uniquely Chinese phenomenon. If further research suggests social capital plays divergent roles in state failure and the rise of mafias in different countries, this should be followed by a comprehensive examination of the underlying reasons for this.

The incorporation of social capital in the discussion of the origins of mafias challenges the theoretical foundation of the economics of organized crime. The study of Chinese extra-legal protection described in this thesis suggests that the rise of certain types of organized crime groups is not only driven by the 'invisible hand' of the market but also by the 'visible hand' of social relations (also see: Kleemans 2012).

The economic and structural approaches are not sufficient to explain organized crime in China and beyond, which encourages criminologists to develop new way of understanding organized crime in the modern world. But how and to what extent a social capital approach fills the gap deserves further research.

3.3. Implications for policy

First, the emergence of extra-legal protection groups requires Chinese law-making institutions and law enforcement agencies to make a clear distinction between ‘organized crime groups’ in general and a particular subcategory, ‘the Black Mafia’, which refers to a type of criminal group specialising in the provision of quasi law enforcement. The lack of a legal definition of this special type of criminal group creates favourable conditions for its development. Furthermore, the absence of a legal definition signals that both central and local governments do not recognise the growth of the extra-legal protection market as a serious social problem. As a result, crime crackdown campaigns organized by both central and local governments succeeded only against street crime and straight-forward violent crime, but they failed to control organized crime groups, especially the newly developed underground police organizations.

Second, the use of soft violence by criminal groups as the main strategy of enforcement encourages the Chinese government to amend or update laws or enact new legislation governing this new means of committing crime and of escaping the clutches of the law. Soft violence is a type of psychological abuse, forcing victims to make decisions unfavourable to themselves. China still does not have any laws specifically to tackle soft violence such as harassment or intimidation. The existing

PRC law and legal system are therefore far from adequate in terms of protecting soft violence victims and bringing their perpetrators to justice.

The absence of legislation dealing with the problem of soft violence not only makes it possible for criminal groups to survive crime crackdown campaigns but also encourages other locally-based crime groups to shift their businesses from gambling, prostitution and drug distribution to the business of private protection. In this case, it is essential to produce effective legislation to tackle underground police organizations and soft violence.

Third, China must strengthen its institutional supervision and improve its legal control over the exercise of government power, especially police power, in order to prevent government officials from falling under the influence of guanxi networks. It is vital for the anti-corruption agency to make a distinction between positive guanxi practice and negative guanxi practice. Business-government guanxi, political-criminal guanxi and guanxi networks within state institutions are often viewed negatively. This is because 'guanxi, by its very nature, discriminates against people outside the guanxi network' (Chen and Chen 2012: 418).

When the political and legal system fails to regulate the use of power by government officials, the guanxi network encourages public officials to engage in corrupt activities, such as rent-seeking, protection of locally-based criminal groups, and the buying and selling of offices, in order to obtain private benefits. Moreover, the guanxi network facilitates corrupt transactions by providing secret and secure channels for the holders and seekers of corrupt benefits to share information and make transactions. Guanxi, as a relational power in the Chinese context, has become

the best strategy to reduce transaction costs and lower the risks of being punished. In this case, reducing the negative impact of guanxi on China's formal legal system should be considered a matter of urgency.

Fourth, in order to reduce the great demand for extra-legal protection and quasi law enforcement, the Chinese government must adopt a combination of strategies: securing private property rights, improving the efficiency of law enforcement agencies and developing various types of dispute resolution mechanisms. Clearly defined and well enforced private property rights will reduce the demand for extra-legal protection. The Chinese legal system, however, is unable to offer well-defined and secure private property rights, especially land property rights. The absence of clear and secure land-use rights leads to serious clashes between land users and local governments. Land users often resort to violence when their land is requisitioned by the local government or real estate developers. As a response, street gangs who specialise in the use of soft violence are frequently employed by local governments and real estate developers to tackle 'nail householders'—land-users who refuse to make way for construction projects. The involvement of street gangs in demolition projects leads to public distrust of local governments, giving rise to rampant protest against government land grabs. This requires the Chinese government to provide secured land rights for Chinese farmers.

The Chinese government should make it a top priority to build judicial capacity and improve the efficiency of justice. China experiences widespread distrust in its legal system, especially the police. When China's legal system improves its ability to protect property rights and settle disputes, citizens' trust in the legal system will

gradually grow. As a result, there will be less demand for alternative sources of protection. Moreover, post-Mao China experiences booming illegal markets. The legal means of dispute resolution—litigation and arbitration—are not available to the criminal underworld, which contributes to the rise in demand for mafia services. As a result, a further piece of policy advice that emerges from this thesis would be legalising gambling and prostitution in mainland China, although this measure is controversial. When gambling and prostitution are regulated by legislation, it creates favourable conditions for legal businessmen to take over these businesses. That is to say, locally-based crime groups will lose their significance in these no-longer-illicit industries. Consequently, customers and suppliers of these commodities or services are able to resort to courts to safeguard their rights and resolve disputes, reducing the demand for extra-legal protection.

It is imperative for the Chinese government to develop different mechanisms of private protection and dispute resolution. China has established various kinds of alternative disputes resolution (ADR) including administrative resolution, civil mediation, arbitration and negotiation. But the existing ADR system is still far from adequate in terms of protecting land-user rights and resolving environmental pollution. When there are no effective legal channels of dispute settlement, citizens tend to employ illegal means of protection. Moreover, both central and local governments should establish favourable policies for the newly-developed private security firms which can largely meet citizens' demand for security. In addition, legalising investigation services is another important step for China to destroy underground investigation teams.

To sum up, this thesis offers a new theoretical framework for studying mafia emergence by exploring the role of guanxi—the Chinese variant of social capital—in state weakness and the rise of extra-legal protectors in contemporary China. It demonstrates that the negative impact on Chinese society of the booming extra-legal protection market is far from negligible. Guanxi provides a secret channel for corrupt transactions, facilitating the rise of illegal job markets (the buying and selling of offices) and building the political-criminal nexus. The negative influence of guanxi on legal institutions leads to serious corruption in China, contributing to the rise of illegal organizations involved in supplying extra-legal protection and quasi law enforcement. In addition, it emphasises the importance of distinguishing criminal groups which specialise in supplying private protection from other criminal syndicates which obtain their main source of income from other illicit businesses.

The study of extra-legal protection in contemporary China contributes not only to the understanding of trends in Chinese organized crime but also to exploring effective countermeasures to organized crime. The impact of guanxi networks on the rise of mafias is an important but previously unexplored area of study. It is thus important for law researchers and legal practitioners, especially those from mainland China, to turn special attention to this emerging phenomenon. The ultimate objectives for this study are to make recommendations that promote China's legal reform and to develop the new model of mafia emergence into a universally-accepted theoretical framework that can be applied to other transitional countries. To achieve these objectives, the new model of mafia emergence which integrates social capital theory is the important subject that deserves further studies.

Appendix

Interviews, Focus Group Discussions (FGDs) and Email Communications

Prof. Qiu Geping, personal communication, e-mail message to author, 15 December 2010

Prof. Qiu Geping, personal communication, e-mail message to author, 22 August, 27 August, and 28 August 2011

Prof. Mei Chuanqiang, interview, Chongqing, People's Republic of China, 27 December 2011

Prof. Jin Qigao, interview, Shanghai, People's Republic of China, 10 January 2012

Prof. Qiu Geping, interview, Shanghai, People's Republic of China, 11 January 2012

Prof. Qiu Geping, personal communication, e-mail message to author, 27 August 2012

Prof. Diego Gambetta, personal communication, e-mail message to author, 4 June 2013

Journalist A, interview, Chongqing, People's Republic of China, 25 December 2011

Journalist B, personal communication, e-mail message to author, 26 December 2011

Journalist C, personal communication, e-mail message to author, 26 December 2011

Journalist D, interview, Chongqing, People's Republic of China, 29 December 2011

Lawyer A, interview, Chongqing, People's Republic of China, 30 December 2011

Lawyer B, interview, Shandong Province, People's Republic of China, 14 February 2012

Lawyer C, interview, Shandong Province, People's Republic of China, 16 February 2012

Lawyer D, interview, Shandong Province, People's Republic of China, 16 February 2012

Lawyer E, interview, Shandong Province, People's Republic of China, 17 February 2012

Businessman A, interview, Shandong Province, People's Republic of China, 6 February 2012

Businessman B, interview, Shandong Province, People's Republic of China, 7 February 2012

Businessman C, interview, Shandong Province, People's Republic of China, 8 February 2012

Businessman D, interview, Shandong Province, People's Republic of China, 12 February 2012

Businessman E, interview, Shandong Province, People's Republic of China, 17 February 2012

Businessman F, telephone interview, 19 May 2012

Businessman G, telephone interview, 26 May 2012

Manager A, a local construction company, interview, Shandong Province, People's Republic of China, 9 January 2012

Manager B, a local construction company, interview, Shandong Province, People's Republic of China, 9 February 2012

Manager C, a private security company, interview, Shandong Province, People's Republic of China, 15 February 2012

Manager D, a bonding company, interview, Shandong Province, People's Republic of China, 15 February 2012

Prosecutor A, interview, Chongqing, People's Republic of China, 21 December 2011

Prosecutor B, interview, Chongqing, People's Republic of China, 24 December 2011

Government official A, interview, Shandong Province, People's Republic of China, 8 February 2012

Government official B, interview, Shandong Province, People's Republic of China, 12 February 2012

Judge A, interview, Shandong Province, People's Republic of China, 29 January 2012

Police officer A, interview, Shandong Province, People's Republic of China, 9 January 2012

Police officer B, interview, Shandong Province, People's Republic of China, 10 February 2012

Taxi driver A, interview, Chongqing, People's Republic of China, 20 December 2011

Taxi driver B, interview, Chongqing, People's Republic of China, 24 December 2011

Taxi driver C, interview, Chongqing, People's Republic of China, 2 January 2012

FGD A, public security officials and prosecutors, focus group discussions, Chongqing, People's Republic of China, 20 December 2011

FGD B, citizens, focus group discussions, Shandong Province, People's Republic of China, 30 January 2012

FGD C, senior managers from bonding companies, focus group discussions, Shandong Province, People's Republic of China, 7 February 2012

FGD D, police officers and businessmen, focus group discussions, Shandong Province, People's Republic of China, 7 February 2012

FGD E, construction company managers, focus group discussions, Shandong Province, People's Republic of China, 9 February 2012

FGD F, hospital managers and businessmen, focus group discussions, Shandong Province, People's Republic of China, 9 February 2012

FGD G, construction company managers and a businessman, focus group discussions, Shandong Province, People's Republic of China, 9 February 2012

FGD H, a judge, a lawyer and a businessman, focus group discussions, Shandong Province, People's Republic of China, 10 February 2012

FGD I, businessmen, focus group discussions, Shandong Province, People's Republic of China, 11 February 2012

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